

# EXHIBIT F

0:00:02.340,0:00:02.590  
[Unofficial Transcript]

0:00:02.360,0:00:03.770  
[Mr. McHenry] The committee will now come  
to order.

0:00:03.770,0:00:10.720  
I will start today's hearing by reading  
the Oversight and Government Reform Committee's

0:00:10.720,0:00:12.140  
Mission Statement.

0:00:12.140,0:00:17.929  
We exist to secure two fundamental principles.  
First, Americans have the right to know that

0:00:17.929,0:00:24.609  
the money Washington takes from them is well  
spent. Second, Americans deserve an efficient,

0:00:24.609,0:00:27.180  
effective government that works for them.

0:00:27.180,0:00:31.810  
Our duty on the Oversight and Government Reform  
Committee is to protect these rights. Our

0:00:31.810,0:00:36.090  
solemn responsibility is to hold government  
accountable to taxpayers because taxpayers

0:00:36.090,0:00:40.030  
have a right to know what they get from their  
government.

0:00:40.030,0:00:44.530  
We will work tirelessly in partnership with  
citizen watchdogs to deliver the facts to

0:00:44.530,0:00:50.140  
the American people and bring them genuine  
reform to the Federal bureaucracy. This is

0:00:50.140,0:00:52.649  
the mission of the Oversight and Government  
Reform Committee.

0:00:52.649,0:00:59.649  
Today, we are here for a joint hearing between  
the Oversight and Government Reform Subcommittee

0:01:06.889,0:01:13.889  
on TARP, Financial Services and Bailouts of  
Public and Private Programs and the Subcommittee

0:01:16.429,0:01:21.609  
on Government Organization, Efficiency and  
Financial Management on "SEC: Who's Watching

0:01:21.609,0:01:24.579  
Wall Street's Watchdog."

0:01:24.579,0:01:30.259  
When we called this hearing originally, we  
were concerned about capital formation and

0:01:30.259,0:01:36.999  
accountability at the SEC. A number of management  
practices had come to light at that point

0:01:36.999,0:01:43.999  
that we thought it would be important to discuss,  
but a lot has changed just in the last two

0:01:44.689,0:01:49.770  
weeks in terms of disclosures of what is happening  
at the SEC and larger issues of concern with

0:01:49.770,0:01:56.770 the Chairman Decl. Pg 3 of 73  
management that strike the agency's credibility.  
So there will be a lot of questions to that

0:01:58.719,0:02:00.469  
regard in today's hearing.

0:02:00.469,0:02:05.189  
[Mr. McHenry] I welcome the panel. I thank  
you for being here and with that, I yield

0:02:05.189,0:02:10.090  
to the Chairman of the full committee, my  
customary five minutes as Subcommittee Chair,

0:02:10.090,0:02:11.530  
for his opening statement.

0:02:11.530,0:02:15.599  
[Chairman Issa] I thank the Chairman and I  
thank him for his generosity with the opening

0:02:15.599,0:02:16.480  
statement.

0:02:16.480,0:02:22.379  
I, too, thought this hearing would be about  
slightly different matters, but in recent

0:02:22.379,0:02:29.379  
days, the committee has become aware of what  
could be the greatest challenge to the SEC's

0:02:29.530,0:02:36.530  
credibility since Bernie Madoff managed to  
dup so many Americans, steal so much money

0:02:36.599,0:02:41.379  
with his ponzi scheme, and escape the proper  
scrutiny of the SEC for so long.

0:02:41.379,0:02:48.379  
As we have learned, in 2009, the former General  
Counsel, Mr. Becker, came to the SEC and informed

0:02:54.109,0:03:00.430  
the Chairman that he had a potential conflict  
of interest. We hope to learn exactly how

0:03:00.430,0:03:07.430  
that was expressed, but in fact, he had received,  
along with his siblings, \$2 million that came

0:03:07.780,0:03:14.780  
from the liquidation of a Bernie Madoff fund  
in 2005. That would be serious enough that

0:03:16.189,0:03:21.519  
anyone would normally consider that he should  
be recused from any activity related to the

0:03:21.519,0:03:23.840  
Madoff after action.

0:03:23.840,0:03:29.230  
Notwithstanding that, Mr. Becker, feeling  
that this was, as we have understood it, a

0:03:29.230,0:03:36.230  
de minimis amount relative to his estate,  
in fact, not only continued to be involved,

0:03:36.590,0:03:43.590  
but was instrumental in having the SEC inserted  
into the process of trying to change how the

0:03:45.069,0:03:52.069  
determination of how much money would be considered  
to be eligible to be retained by those who

0:03:52.510,0:03:58.400

got their money out before the collapse of the Chairman Decl. Pg 4 of 73  
how much would be clawed back for the greater

0:03:58.400,0:04:02.819  
good of all those involved and victimized  
by the ponzi scheme.

0:04:02.819,0:04:09.819  
Had Mr. Becker's suggestions been taken,  
in fact, Mr. Becker's mother's estate

0:04:10.150,0:04:16.410  
of \$2 million would have benefited well all  
those who were there to the end and lost so

0:04:16.410,0:04:19.660  
much would have been victimized.

0:04:19.660,0:04:24.699  
The problem we are going to be probing in  
this hearing, in addition to others, is can

0:04:24.699,0:04:31.699  
we trust an SEC where the process allows an  
individual to inform the Chairwoman, to inform

0:04:31.949,0:04:37.789  
the ethics individual who actually reports  
to the General Counsel, and get effectively

0:04:37.789,0:04:44.630  
a clean bill of health not to disclose and  
not to recuse and even to be involved in an

0:04:44.630,0:04:51.090  
action that had it been accepted, as our understanding  
is, by the trustees, would have led to a distortion

0:04:51.090,0:04:55.650  
of process in favor of Mr. Becker's family.

0:04:55.650,0:05:02.639  
We take Mr. Becker at his word that, in fact,  
he intended no wrong. We are willing to take

0:05:02.639,0:05:09.639  
factually in 25 minutes, the ethics individual  
at SEC made a determination there was no problem

0:05:11.090,0:05:15.770  
and stuck by it. We are willing to hear the  
Chairwoman here today.

0:05:15.770,0:05:20.379  
What we are not willing to do, as the committee  
that deals in waste, fraud and abuse, and

0:05:20.379,0:05:25.949  
as a committee of Congress, all of us being  
concerned a great deal about the confidence

0:05:25.949,0:05:32.889  
in what the SEC represents in its oversight,  
its fairness and its competence, we are not

0:05:32.889,0:05:37.050  
willing to accept that this can ever happen  
again.

0:05:37.050,0:05:43.970  
Mr. Chairman, I am not going to presume any  
facts not yet in evidence. So far, we only

0:05:43.970,0:05:50.970  
have a limited amount of reports, a clawback  
procedure against Mr. Becker and Mr. Becker's

0:05:51.289,0:05:57.360  
own interview here with some of our investigators.  
Today, we have an opportunity to listen to

0:05:57.360,0:06:04.360 the Chairman Decl. Pg 5 of 73  
the Chairwoman, to realize that she inherited  
an organization that had no flaws, but her

0:06:05.690,0:06:10.810  
independent agency has, in fact, been the  
subject of the President's attention, her

0:06:10.810,0:06:12.310  
attention.

0:06:12.310,0:06:19.310  
We have not yet high confidence but high hope  
that the SEC will live up to its mandate,

0:06:19.430,0:06:25.650  
not just of having a complex web of rules  
that tell public companies that if their own

0:06:25.650,0:06:32.419  
child works for a company, they cannot be  
outside or independent officers or directors

0:06:32.419,0:06:38.210  
of the company, or, for example, what a conflict  
is to the people who oversee, who can be on

0:06:38.210,0:06:44.120  
the compensation committee, who cannot. It  
is a complex business but it relies on a belief

0:06:44.120,0:06:50.729  
that the rules are necessary, they are implemented  
in a sensible way, uniformly and that they

0:06:50.729,0:06:51.740  
are for a purpose.

0:06:51.740,0:06:58.020  
I believe as we look further into the Becker  
matter, we are going to find the SEC failed

0:06:58.020,0:07:03.800  
to have the highest level of fear so that  
public confidence could be maintained. I can

0:07:03.800,0:07:08.789  
find no way out of this. I hope today we at  
least understand how this mistake came to

0:07:08.789,0:07:09.189  
happen.

0:07:09.189,0:07:13.509  
Mr. Chairman, once again, thank you for holding  
this important hearing and I yield back.

0:07:13.509,0:07:18.919  
[Mr. McHenry] Thank you, Mr. Chairman. Thank  
you for your statement. With that, I recognize

0:07:18.919,0:07:22.780  
the distinguished member from Illinois, the  
Chairman of the Subcommittee on TARP, Financial

0:07:22.780,0:07:25.509  
Services and Bailouts of Public and Private  
Programs, Mr. Quigley, for five minutes.

0:07:25.509,0:07:32.509  
I am sorry, I just promoted you to Chairman  
-- Ranking Member, Mr. Quigley.

0:07:36.629,0:07:43.530  
[Mr. Quigley] Thank you so much, Mr. Chairman.  
I soon will be joined by Chairman Platts,

0:07:43.530,0:07:43.870  
as well.

0:07:43.870,0:07:48.259

I thank our witnesses for their time today  
and their contributions.

0:07:48.259,0:07:53.449

As we all know, in December of 2008, Bernard Madoff was arrested for running the largest

0:07:53.449,0:07:58.629

ponzi scheme in American history. Losses from Madoff's fraud have been estimated at \$18

0:07:58.629,0:08:01.379

billion, devastating the savings of many Americans.

0:08:01.379,0:08:06.969

We all know the SEC missed Madoff despite being tipped off on several occasions. Although

0:08:06.969,0:08:11.810

no regulatory agency should be expected to be perfect, a failure of this magnitude is

0:08:11.810,0:08:12.930

clearly unacceptable.

0:08:12.930,0:08:18.560

How did this happen? Many have blamed the SEC's outdated technology, which is woefully

0:08:18.560,0:08:23.469

behind what the financial firms are using; many have blamed the SEC's silo problem

0:08:23.469,0:08:29.370

which prevents coordination among the SEC's many offices. Another culprit that has been

0:08:29.370,0:08:34.590

cited is the SEC's workforce which some argue includes too many lawyers and not enough

0:08:34.590,0:08:40.280

industry veterans. We have all heard about the SEC employees viewing pornography instead

0:08:40.280,0:08:45.150

of doing their jobs. These are reasonable concerns and all merit oversight from these

0:08:45.150,0:08:46.880

two subcommittees.

0:08:46.880,0:08:51.760

We have also heard about a potential conflict of interest from David Becker, formerly Senior

0:08:51.760,0:08:57.640

Counsel at the SEC. It is my understanding that SEC IG David Katz is investigating this

0:08:57.640,0:09:00.440

matter. I look forward to his report.

0:09:00.440,0:09:05.650

Just a few years removed from Madoff and the worst financial crisis since the Great Depression,

0:09:05.650,0:09:11.640

we need the SEC to do its job and do it well. The SEC is Wall Street's policeman. It was

0:09:11.640,0:09:18.100

estimated by the 1934 Security Exchange Act to prevent fraud and abuse in the securities

0:09:18.100,0:09:22.860

market. Creating the SEC was essential to restoring investor trust in our country's

0:09:22.860,0:09:28.910

economic system. If our economic system is

0:09:28.910,0:09:35.910  
Stiglitz, then we have to make sure that what  
people gain when they cheat is offset by a

0:09:35.940,0:09:37.770  
system of penalties.

0:09:37.770,0:09:42.730  
Each year, the SEC brings hundreds of enforcement  
cases against firms that have sold fraudulent

0:09:42.730,0:09:49.130  
financial products. In 2010, for example,  
the SEC brought 681 enforcement cases against

0:09:49.130,0:09:51.760  
1,800 defendants.

0:09:51.760,0:09:56.510  
Just as all of us feel more comfortable in  
our neighborhoods when they are well policed,

0:09:56.510,0:10:00.420  
investors feel more comfortable buying financial  
products when the SEC is doing its job and

0:10:00.420,0:10:06.390  
prosecuting white collar crime. The SEC is  
more important today than ever before. Trust

0:10:06.390,0:10:12.080  
in our financial system is at its lowest ebb  
and this lack of trust is impeding our economic

0:10:12.080,0:10:13.190  
recovery.

0:10:13.190,0:10:18.230  
The financial regulatory reform law passed  
here was a step in the right direction, but

0:10:18.230,0:10:23.560  
it alone is insufficient. Laws have to be  
enforced and the SEC needs to be a strong

0:10:23.560,0:10:24.970  
enforcer.

0:10:24.970,0:10:31.220  
Unfortunately, the House-passed budget would  
reduce SEC funding from its current \$1.1 billion.

0:10:31.220,0:10:38.220  
For comparison's sake, City Bank spent \$1.6  
billion on marketing alone in 2010. How is

0:10:41.910,0:10:47.760  
the SEC expected to police Wall Street when  
its entire budget is less than the marketing

0:10:47.760,0:10:50.500  
budget of one Wall Street Bank?

0:10:50.500,0:10:55.640  
In a May 2010 report, the Minority staff of  
the Oversight Committee found that the Commission

0:10:55.640,0:11:01.110  
security disclosure procedures are technologically  
backward. Yet, under the House-passed cuts,

0:11:01.110,0:11:06.630  
the SEC won't be able to continue any improvement  
of its IT systems. If the SEC's budget is

0:11:06.630,0:11:13.140  
reduced to 2008 levels, as some have proposed,  
the SEC would have to layoff 600 workers.

0:11:13.140,0:11:18.050 the Chairman Decl. Pg 8 of 73

My point is this. Just a few years after the Madoff incident and the worst financial crisis

0:11:18.050,0:11:24.680  
in recent history, should we really be talking about taking 600 cops off Wall Street? Let

0:11:24.680,0:11:30.520  
us strengthen the SEC, not weaken it. Let us also ensure that the SEC undertakes common

0:11:30.520,0:11:33.480  
sense report to avoid past mistakes.

0:11:33.480,0:11:40.480  
Put another way, after 9/11, despite our intelligence failures, we did not cut the intelligence

0:11:42.500,0:11:48.600  
budget, we doubled it. It is my understanding that the SEC has already reorganized, brought

0:11:48.600,0:11:55.370  
in a COO and designed a new tips referral system. These are all commendable steps.

0:11:55.370,0:12:00.540  
In the end, our country will be safer from another financial crisis if the SEC is well

0:12:00.540,0:12:03.260  
organized and well funded.

0:12:03.260,0:12:07.120  
I look forward to hearing from our witnesses who I hope will provide some constructive

0:12:07.120,0:12:11.080  
ideas on how to improve the SEC's oversight of financial markets.

0:12:11.080,0:12:12.490  
Thank you. I yield back.

0:12:12.490,0:12:15.910  
[Mr. McHenry] I thank the Ranking Member.

0:12:15.910,0:12:21.610  
With prior agreement on our side, Dr. Gosar from Arizona will have five minutes for an

0:12:21.610,0:12:22.270  
opening statement.

0:12:22.270,0:12:23.790  
[Mr. Gosar] Thank you, Mr. Chairman.

0:12:23.790,0:12:30.790  
Let me preface my comments with the following. I am not a financial analyst, I am not an

0:12:31.750,0:12:38.350  
accountant and I am not a lawyer, but I do have skin in the game, as do most Americans.

0:12:38.350,0:12:42.680  
Most Americans are compelled to invest in the markets through their employer-sponsored

0:12:42.680,0:12:48.770  
retirement plans whether they are 401(k) plans or public or union pension plans. The money

0:12:48.770,0:12:51.270  
largely goes to Wall Street.

0:12:51.270,0:12:56.000  
The public needs assurances that those who handle our money and our retirement futures

0:12:56.000,0:13:01.390 the Chairman Decl. Pg 9 of 73  
are playing by the rules and are being fair  
and are honoring their fiduciary responsibilities

0:13:01.390,0:13:02.810  
and obligations.

0:13:02.810,0:13:08.740  
The public assurances come from the Securities  
Exchange Commission. The SEC is supposed to

0:13:08.740,0:13:14.450  
be guarding the hen house. This hearing raises  
troubling questions. Who is watching the hen

0:13:14.450,0:13:18.070  
house -- the fox or the guard?

0:13:18.070,0:13:23.730  
Mr. Chairman, recent news reports have focused  
on David Becker's conflict of interest,

0:13:23.730,0:13:28.570  
but this hearing is not about a single incident.  
This problem is actually far deeper and goes

0:13:28.570,0:13:33.470  
to the very heart of management practices  
at the SEC.

0:13:33.470,0:13:39.570  
Every organization needs a set of mechanisms  
to prevent or detect fraud, waste or mismanagement.

0:13:39.570,0:13:44.760  
These are commonly known as internal controls.  
It would appear that internal controls at

0:13:44.760,0:13:47.350  
the SEC are not functioning properly.

0:13:47.350,0:13:52.750  
One, the Government Accounting Office tells  
us that the SEC is unable to reliably track

0:13:52.750,0:13:59.480  
its finances because it cannot control its  
own financial reporting. Two, the SEC's

0:13:59.480,0:14:04.680  
Inspector General tells us that 30 employees,  
including an assistant regional director,

0:14:04.680,0:14:10.000  
viewed sexually explicit materials at work  
and only one was actually fired. Was anyone

0:14:10.000,0:14:16.870  
else ever disciplined? Three, now the news  
media tells us that the SEC's General Counsel

0:14:16.870,0:14:23.050  
was allowed to advise the Commissioners on  
the Madoff case when he had a personal, financial

0:14:23.050,0:14:24.480  
interest.

0:14:24.480,0:14:30.060  
All these matters represent a breakdown in  
oversight and management, a failure of internal

0:14:30.060,0:14:35.250  
controls. The sad irony is that the SEC is  
the Federal agency in charge of making sure

0:14:35.250,0:14:41.420  
publicly traded companies have effective internal  
controls and public governance structures.

0:14:41.420,0:14:46.580

In fact, Mr. Chairman, if these events were to occur at a publicly traded company, the SEC would

0:14:46.580,0:14:52.200  
be investigating itself and what would be  
the penalties?

0:14:52.200,0:14:56.980  
Federal agencies are subject to the Federal  
Managers Financial Integrity Act which dictates

0:14:56.980,0:15:02.790  
that they provide annual assurances to Congress  
that their internal controls are adequate.

0:15:02.790,0:15:09.060  
This law has been in effect since 1982 and  
governs not just financial management, but

0:15:09.060,0:15:11.600  
program management as well.

0:15:11.600,0:15:16.330  
The Federal Managers Financial Integrity Act  
is within this committee's jurisdiction.

0:15:16.330,0:15:21.720  
Therefore, this hearing has an important legislative  
and oversight purpose in the Commission's

0:15:21.720,0:15:28.180  
compliance with the law and others. Mr. Chairman,  
the anecdotal example of internal breakdowns

0:15:28.180,0:15:35.180  
are symptoms of a much larger systemic breakdown.  
Since there is no SEC to investigate the SEC,

0:15:35.990,0:15:38.180  
today I challenge my colleagues.

0:15:38.180,0:15:40.610  
Thank you, Mr. Chairman. I yield the balance  
of my time.

0:15:40.610,0:15:42.350  
[Mr. McHenry] I thank the gentleman.

0:15:42.350,0:15:47.750  
I now recognize the Ranking Member of the  
Subcommittee on Government Organization, Efficiency

0:15:47.750,0:15:52.920  
and Financial Management, Mr. Towns, former  
Chairman of the full Committee, for five minutes.

0:15:52.920,0:15:57.880  
[Mr. Towns] Thank you very much, Mr. Chairman,  
and thank you for holding this hearing today.

0:15:57.880,0:16:03.420  
The SEC is at an important crossroads. It  
is successfully emerging from a troublesome

0:16:03.420,0:16:09.190  
period leading up to collapse of the country's  
financial system. It is paused to take the

0:16:09.190,0:16:14.940  
lead in reforming Wall Street and preventing  
another financial meltdown through its enforcement

0:16:14.940,0:16:17.860  
of the Dodd-Frank Act.

0:16:17.860,0:16:22.950  
This hearing will examine financial management,  
the workforce and internal operations at the

0:16:22.950,0:16:29.950  
SEC. It is encouraging to see all the new

0:16:30.220,0:16:36.470  
in the last two years. The SEC hired its first  
Chief Operating Officer to oversee the accounting

0:16:36.470,0:16:42.640  
functions, financial reporting and internal  
controls, and we salute you for that, Madam

0:16:42.640,0:16:43.300  
Chair.

0:16:43.300,0:16:48.890  
The SEC has also hired a new Chief Information  
Officer to oversee its information technology

0:16:48.890,0:16:55.890  
functions. The Chairperson has restructured  
the entire Enforcement Division, recruited

0:16:56.090,0:17:02.980  
experts and has put a new governing structure  
in place. This is commendable as well.

0:17:02.980,0:17:09.980  
As with any organization, lapses can, do and  
will occur. I understand the SEC has taken

0:17:10.100,0:17:16.230  
disciplinary action against those who have  
been accused of misconduct at the Commission

0:17:16.230,0:17:20.579  
and that greater accountability has been integrated  
into the disciplinary process.

0:17:20.579,0:17:27.579  
The SEC is responsible for safeguarding the  
confidence of American investors in the financial

0:17:29.049,0:17:35.250  
markets and I hope our hearing today will  
help our financial watchdog fulfill its mission.

0:17:35.250,0:17:39.190  
I now yield the balance of my time to the  
Ranking Member of the full Committee.

0:17:39.190,0:17:43.240  
[Mr. Cummings] I thank the gentleman for yielding.

0:17:43.240,0:17:47.750  
This committee is responsible for ensuring  
that our government operates effectively and

0:17:47.750,0:17:53.480  
efficiently. That means holding public officials  
to the highest standards, demanding excellence

0:17:53.480,0:17:59.120  
at every turn and eliminating even the appearance  
of impropriety.

0:17:59.120,0:18:03.539  
Today, the committee intends to examine against  
David Becker, the former General Counsel of

0:18:03.539,0:18:10.539  
the SEC. I do not know Mr. Becker, I have  
never met him, never talked to him, and the

0:18:10.659,0:18:15.370  
Minority was excluded from Mr. Becker's  
interview when Chairman Issa's staff interviewed

0:18:15.370,0:18:20.740  
him, but I do want to make sure that everyone  
who comes before this committee is treated

0:18:20.740,0:18:24.820

fairly, including Mr. Becker, Chairman Schapiro, the Chairman Decl. Pg 12 of 73  
and others.

0:18:24.820,0:18:30.639

If I understand the facts correctly, Mr. Becker's parents invested about \$500,000 with Bernie

0:18:30.639,0:18:36.269

Madoff in 2000. Mr. Becker's mother died in 2004 and when her funds were divided among

0:18:36.269,0:18:43.120

Mr. Becker and his two brothers in 2006, they had increased to about \$2 million.

0:18:43.120,0:18:48.769

Mr. Becker joined the SEC in 2009, he notified the SEC officials about his inheritance and

0:18:48.769,0:18:53.019

when issues arose relating to his inheritance, he sought advice from SEC ethics officials

0:18:53.019,0:18:58.019

and received clearance to proceed. Some have suggested that Mr. Becker may have benefited

0:18:58.019,0:19:03.399

financially from the SEC's later decisions, but it appears that the opposite may be true.

0:19:03.399,0:19:08.850

The basic question the SEC faced was whether to support an asset valuation method used

0:19:08.850,0:19:14.460

by the trustee representing the Madoff victims, called the cash-in-cash-out method, or a different

0:19:14.460,0:19:19.340

valuation method proposed by several law firms called the last statement method.

0:19:19.340,0:19:23.919

Under the first, Mr. Becker's inheritance would be subject to litigation to recover

0:19:23.919,0:19:30.059

or clawback assets on behalf of the Madoff victims. Under the second, it appears that

0:19:30.059,0:19:34.750

it would not. Based on the court filings, the SEC chose to support the first method.

0:19:34.750,0:19:39.370

This meant that the trustee could sue Mr. Becker and his brothers to recover some of

0:19:39.370,0:19:43.129

his mother's inheritance which is exactly what happened.

0:19:43.129,0:19:48.639

Mr. Chairman, in your briefing memo for today's hearing, you acknowledged that the SEC's

0:19:48.639,0:19:54.669

decision was "actually detrimental to Mr. Becker's interest." Nevertheless, I have

0:19:54.669,0:19:59.850

serious questions about the conclusions of the SEC's Ethics Office, Chairman Schapiro,

0:19:59.850,0:20:06.149

that these issues had no effect on Mr. Becker's financial interest. Someone else of questionable

0:20:06.149,0:20:11.190

character might have tried to take advantage

0:20:11.190,0:20:17.429  
whether Mr. Becker's interests should have  
been disclosed more widely within the SEC

0:20:17.429,0:20:20.950  
and I hope we can learn more about this process  
today.

0:20:20.950,0:20:27.950  
I also invite my Republican colleagues to  
join us in making sure that the SEC has all

0:20:27.990,0:20:34.990  
the resources it needs. There is a proposed  
cutting of \$148 million from their budget

0:20:35.110,0:20:38.999  
and we do need a robust SEC.

0:20:38.999,0:20:44.249  
Chairwoman Schapiro, I read what you have  
done and what you have accomplished. You inherited

0:20:44.249,0:20:50.090  
a mess. You inherited an agency that Senator  
McCain said the former Chair should resign,

0:20:50.090,0:20:52.490  
so we understand that.

0:20:52.490,0:20:56.139  
Again, I am looking for a fair hearing and  
one where we can get to the bottom of all

0:20:56.139,0:20:56.620  
of this.

0:20:56.620,0:20:57.720  
I yield back.

0:20:57.720,0:21:01.480  
[Mr. McHenry] I thank the Ranking Member.

0:21:01.480,0:21:04.899  
All members may have seven days to submit  
opening statements for the record.

0:21:04.899,0:21:09.499  
I will now recognize the panel. We have the  
Honorable Mary Schapiro, Chairman, Securities

0:21:09.499,0:21:16.499  
and Exchange Commission; Mr. Jeffrey Ringer,  
Director, SEC Office of Human Resources; Mr.

0:21:19.360,0:21:25.129  
Jonathan Jack Katz, the former Secretary of  
the Securities and Exchange Commission for

0:21:25.129,0:21:32.129  
20 years; Mr. Stephen Crimmins, a securities  
attorney with K&L Gates -- he served as Deputy

0:21:34.269,0:21:41.269  
Chief Litigation Counsel of the SEC's Enforcement  
Division from 1993-2001; and Ms. Helen Chaitman,

0:21:44.009,0:21:51.009  
the attorney representing approximately 350  
investors in Mr. Bernard L. Madoff's investment

0:21:51.049,0:21:53.570  
securities firm.

0:21:53.570,0:21:58.580  
It is the policy of the committee that all  
witnesses be sworn before they testify. Please

0:21:58.580,0:21:59.899

0:21:59.899,0:22:06.899  
Do you solemnly swear or affirm that the testimony  
you are about to give this committee will

0:22:09.259,0:22:12.980  
be the truth, the whole truth, and nothing  
but the truth?

0:22:12.980,0:22:16.009  
[Witnesses respond in the affirmative]

0:22:16.009,0:22:20.950  
[Mr. McHenry] The record will reflect that  
all the witnesses answered in the affirmative.

0:22:20.950,0:22:22.649  
With that, I thank you.

0:22:22.649,0:22:28.620  
We will begin at this time with Chairman Schapiro.  
I think you heard the members' opening statements

0:22:28.620,0:22:33.679  
and we would love to hear your comments, especially  
about this conflict that has been discussed.

0:22:33.679,0:22:34.539  
Ms. Schapiro?

0:22:34.539,0:22:39.289  
[Ms. Schapiro] Thank you very much, Chairman  
McHenry, Ranking Members Quigley and Towns,

0:22:39.289,0:22:41.519  
members of the Subcommittee.

0:22:41.519,0:22:45.039  
Thank you for inviting me to testify today  
regarding the financial management, workforce

0:22:45.039,0:22:49.139  
management and internal operations of the  
Securities and Exchange Commission. As you

0:22:49.139,0:22:53.809  
know, I am joined by Jeff Risinger, Director  
of our Office of Human Resources.

0:22:53.809,0:22:58.710  
When I arrived at the SEC two years ago, the  
agency was reeling from a variety of economic

0:22:58.710,0:23:05.529  
events and mission failures and in need of  
across the board reform. We needed more experts,

0:23:05.529,0:23:10.330  
better training, improved communication among  
our divisions and offices and an effective

0:23:10.330,0:23:15.820  
strategy for handling tips and complaints.  
These challenges were exacerbated by inadequate

0:23:15.820,0:23:21.169  
infrastructure, material weaknesses in financial  
management and a culture that had failed to

0:23:21.169,0:23:27.039  
keep up with an increasingly complex financial  
marketplace. We immediately and comprehensively

0:23:27.039,0:23:32.080  
set out to change the way the Commission worked.  
My written testimony details the reforms of

0:23:32.080,0:23:35.159  
the last two years, but I would like to highlight  
a few.

0:23:35.159,0:23:40.240

We brought new leadership and senior management to virtually every office and hired the Commission's

0:23:40.240,0:23:45.940

first Chief Operating Officer. We revitalized and restructured our enforcement and examination

0:23:45.940,0:23:51.679

operations and revamped our handling of tips and complaints. We broke down internal silos

0:23:51.679,0:23:57.240

and created a culture of collaboration. We recruited more staff with specialized expertise

0:23:57.240,0:24:02.619

and real world experience and expanded our training. We enhanced safeguards for investors'

0:24:02.619,0:24:06.690

assets through new rules and the leveraging of public accounting firms.

0:24:06.690,0:24:12.240

Although we have made significant progress, we continue to seek ways to improve our operations.

0:24:12.240,0:24:18.559

After all, our core responsibility is pursuing fraud, reviewing corporate disclosures, overseeing

0:24:18.559,0:24:23.119

the largest capital markets in the world and inspecting the activities of thousands of

0:24:23.119,0:24:27.820

financial intermediaries our essential to restoring investor confidence in the wake

0:24:27.820,0:24:29.869

of the financial crisis.

0:24:29.869,0:24:36.399

Our funding has presented challenges. From 2005 to 2007, the SEC experienced three years

0:24:36.399,0:24:42.549

of frozen or reduced budgets, forcing a 10 percent reduction in the agency staff. Similarly,

0:24:42.549,0:24:48.110

the agency's investment in new or advanced systems declined approximately 50 percent

0:24:48.110,0:24:50.240

between 2005 and 2009.

0:24:50.240,0:24:57.240

While SEC staffing levels are just now returning to 2005 levels, the securities markets have

0:24:57.549,0:25:03.480

undergone tremendous growth since then. Indeed, during the past decade, trading volume has

0:25:03.480,0:25:08.450

more than doubled, the number of investment advisors grew by 50 percent and the funds

0:25:08.450,0:25:15.450

they manage increased to \$38 trillion. Operating under the continuing resolution only exacerbates

0:25:15.509,0:25:19.559

the imbalance between our resources and the magnitude of our mission.

0:25:19.559,0:25:25.059

At the same time, the Dodd-Frank is significantly

0:25:25.059,0:25:30.149  
the derivatives market, hedge fund advisors  
and union support advisors. In addition, we

0:25:30.149,0:25:34.139  
are also charged with enhanced supervision  
of rating agencies, heightened regulation

0:25:34.139,0:25:39.009  
of asset-backed securities and the creation  
of a new whistleblower program.

0:25:39.009,0:25:42.869  
For these reasons, I am concerned that without  
additional resources, we will not be able

0:25:42.869,0:25:47.529  
to fulfill these responsibilities in the manner  
in which Congress intends and the American

0:25:47.529,0:25:49.950  
people deserve.

0:25:49.950,0:25:53.509  
Finally, I would like to address the issue  
of former Counsel David Becker's role in

0:25:53.509,0:25:58.059  
light of his mother's ownership of an account  
at Madoff that was closed years before the

0:25:58.059,0:26:00.399  
fraud was revealed.

0:26:00.399,0:26:05.909  
Mr. Becker informed me, I believe shortly  
after he arrived in 2009, that his mother

0:26:05.909,0:26:10.549  
had an account with Madoff before she died  
and that it had been closed a number of years

0:26:10.549,0:26:15.309  
before he returned to the agency. It did not  
strike me that his mother's account closed

0:26:15.309,0:26:20.480  
years ago would present a financial conflict  
of interest.

0:26:20.480,0:26:25.340  
Mr. Becker was, and is, an experienced attorney  
who had served as General Counsel under three

0:26:25.340,0:26:31.049  
chairmen. I relied on him to present any ethics  
related issues to the Ethics Counsel and follow

0:26:31.049,0:26:35.330  
the Ethics Counsel's advice. I understand  
that is what he did.

0:26:35.330,0:26:40.720  
When I returned to the agency in 2009 having  
served there in the late 1980s and early 1990s,

0:26:40.720,0:26:45.669  
appointed by President Reagan and President  
Bush, I read many letters from Madoff's

0:26:45.669,0:26:51.730  
victims, people who have lost everything.  
My entire focus was on how to fix the SEC

0:26:51.730,0:26:56.330  
to ensure that another tragedy like Madoff  
could never happen again, and how to make

0:26:56.330,0:27:01.169

sure within the contours of the Settlement Chairman Decl. Pg 17 of 73  
Investors Protection Act that we could get

0:27:01.169,0:27:05.269  
the most money to people who were literally  
losing their homes.

0:27:05.269,0:27:09.649  
I am proud of how much we have accomplished  
in the past two years working tirelessly with

0:27:09.649,0:27:14.399  
an extraordinary staff to improve the operation  
of the Commission and enhance the public's

0:27:14.399,0:27:18.549  
perception of the integrity of our work and  
the fairness of our decisions.

0:27:18.549,0:27:24.110  
While Mr. Becker did solicit and follow advice  
from the ethic's counsel, I realize in light

0:27:24.110,0:27:29.029  
of this incident that as Chairman, I have  
to ensure that we go beyond what may be required

0:27:29.029,0:27:34.330  
in any particular situation. On matters like  
these, I have to be looking around the next

0:27:34.330,0:27:40.129  
corner, looking beyond the horizon and thinking  
above and beyond what may be appropriate advice

0:27:40.129,0:27:44.570  
from the Ethics Counsel to make sure nothing  
occurs that could raise questions about the

0:27:44.570,0:27:46.940  
Commission's mission or processes.

0:27:46.940,0:27:51.429  
To ensure that this matter is fully reviewed,  
I requested that the SEC Inspector General

0:27:51.429,0:27:56.580  
conduct an independent review and analysis  
of all of the relevant facts. In addition,

0:27:56.580,0:28:01.369  
under the leadership of our new Ethics Counsel,  
we have been performing a top to bottom review

0:28:01.369,0:28:03.159  
of our ethics program.

0:28:03.159,0:28:06.820  
In the meantime, I look forward to answering  
questions about this matter to the best of

0:28:06.820,0:28:11.570  
my recollection, but I can say to this committee  
with assuredness, we will learn from this

0:28:11.570,0:28:18.570  
experience and we will take all actions necessary  
to earn the trust the public places in us.

0:28:18.669,0:28:19.129  
Thank you.

0:28:19.129,0:28:20.320  
[Mr. McHenry] Thank you, Chairman.

0:28:20.320,0:28:25.480  
I would counsel the committee that the lights  
before you, at one minute to go, it will turn

0:28:25.480,0:28:31.739  
yellow and red means stop. With that, if you

0:28:31.739,0:28:32.139  
would certainly appreciate it.

0:28:32.139,0:28:33.840  
Mr. Risinger?

0:28:33.840,0:28:38.239  
[Mr. Risinger] Mr. Chairman, I am happy to  
be before the committee today. I look forward

0:28:38.239,0:28:42.409  
to taking your questions. I don't have any  
further statements.

0:28:42.409,0:28:47.960  
[Mr. McHenry] Five seconds. That might be  
a record. Thank you and congratulations.

0:28:47.960,0:28:48.769  
Mr. Katz.

0:28:48.769,0:28:55.769  
[Mr. Katz] Good afternoon, Chairman McHenry,  
Chairman Platz, Ranking Member Quigley, Ranking

0:28:58.350,0:29:03.299  
Member Towns, members of the two subcommittees.  
It really is an honor to be invited to testify

0:29:03.299,0:29:05.929  
on the operations of the Securities and Exchange  
Commission today.

0:29:05.929,0:29:11.350  
It is a matter of great interest and importance  
to me personally because for most of my career,

0:29:11.350,0:29:17.019  
I was an employee of the SEC. For 20 of those  
years, I served as the Commission's Secretary,

0:29:17.019,0:29:21.549  
which was one of those unusual positions that  
afforded me a rare opportunity to participate

0:29:21.549,0:29:25.470  
firsthand in virtually every aspect of the  
Commission's responsibilities.

0:29:25.470,0:29:31.379  
I retired from the Commission in January of  
2006. In the five intervening years, I have

0:29:31.379,0:29:37.460  
really been fortunate. I have served as a  
technical advisor to a variety of securities

0:29:37.460,0:29:42.139  
commissions in governments in emerging market  
countries and have also had the opportunity

0:29:42.139,0:29:45.429  
to speak and write about financial regulation  
in the United States.

0:29:45.429,0:29:51.330  
In 2008, the Center for Capital Market Competitiveness  
at the U.S. Chamber of Commerce invited me

0:29:51.330,0:29:54.860  
to conduct a study and to write a report on  
how to improve the efficiency and effectiveness

0:29:54.860,0:30:01.860  
of the SEC. I wrote this study based upon  
interviews with more than 50 current and former

0:30:02.940,0:30:08.179  
SEC staff persons and Commissioners who agreed

0:30:08.179,0:30:12.909  
insights and criticisms, the best of which  
I shamelessly stole.

0:30:12.909,0:30:19.480  
In addition to this report, in 2009, I wrote  
a second article for the Pittsburgh Law Review.

0:30:19.480,0:30:24.989  
This article focused primarily on the Enforcement  
Division of the SEC, a subject that I did

0:30:24.989,0:30:29.860  
not discuss in the Chamber report. Unlike  
the Chamber report which reflected the collective

0:30:29.860,0:30:35.909  
views of a wide range of people, this article  
was really my own personal views. In both

0:30:35.909,0:30:41.369  
documents, I attempted to constructively identify  
what could be done to make the agency a more

0:30:41.369,0:30:45.379  
effective capital market regulator.

0:30:45.379,0:30:49.769  
Today, I am aware that one of the focal points  
is, of course, the SEC's budget and question

0:30:49.769,0:30:56.769  
of resources. I have to answer that I, like  
most people, agree that the SEC does need

0:30:56.970,0:31:03.320  
more staff to carry out its responsibilities,  
but why more money and more staff is necessary,

0:31:03.320,0:31:10.320  
I don't think it is sufficient. To do the  
job well, the agency has to reexamine how

0:31:10.429,0:31:15.639  
it does that job and I think it has to make  
changes. I think it is time to critically

0:31:15.639,0:31:20.359  
self examine the core functions and recognize  
that most of them just haven't been very

0:31:20.359,0:31:21.940  
effective.

0:31:21.940,0:31:28.909  
My concern is that just having more people  
do more of the same thing in the same way

0:31:28.909,0:31:34.480  
is not the best solution. I think we need  
fundamental changes in organization and management

0:31:34.480,0:31:39.940  
and mission definition. Chairman Schapiro  
has identified a number of the initiatives

0:31:39.940,0:31:42.600  
she has undertaken and I commend her on them.

0:31:42.600,0:31:47.559  
I worked for seven Chairmen and four Acting  
Chairmen and I will tell you that with the

0:31:47.559,0:31:51.450  
possible exception of John Schad, the first  
Chairman I worked with, Chairman Schapiro

0:31:51.450,0:31:55.359  
has probably focused more of her attention

0:31:55.359,0:32:00.509  
the other intervening Chairmen, but again,  
these are first steps and I think more needs

0:32:00.509,0:32:02.379  
to be done.

0:32:02.379,0:32:09.379  
I want to highlight five points that are contained  
in my witness statement. I don't have time

0:32:10.210,0:32:13.659  
to go through all of them but if people have  
questions, I would be happy to do it.

0:32:13.659,0:32:19.289  
I think the agency needs a partial reorganization.  
I advocate what is referred to internationally

0:32:19.289,0:32:24.570  
as the Twin Peaks approach, one division that  
deals with all aspects of retail financial

0:32:24.570,0:32:30.759  
services regulation and another division that  
handles all credential functions, the so-called

0:32:30.759,0:32:35.179  
safety soundness and stability functions.

0:32:35.179,0:32:40.499  
I think the agency needs a Chief Operating  
Officer. I applaud Chairman Schapiro for appointing

0:32:40.499,0:32:46.019  
one, but I think you have to go further. You  
need a Chief Operating Officer who really

0:32:46.019,0:32:50.509  
is that and has more than the title. The way  
I distinguish it is when you try and build

0:32:50.509,0:32:57.509  
a house, the architect and owner design the  
house, but you need a general contractor to

0:32:58.429,0:33:02.539  
actually get it done, to build it well, to  
keep you on budget and on time.

0:33:02.539,0:33:09.539  
I see my time is almost up, so I will quickly  
identify two other things. I think there needs

0:33:09.869,0:33:15.399  
to be substantial changes in enforcement.  
When you look at Madoff, you understand, in

0:33:15.399,0:33:20.070  
my opinion, this was not a question of culpability,  
a few bad people doing bad things.

0:33:20.070,0:33:25.989  
Madoff is similar to other failures of the  
Commission in the past. These are structural

0:33:25.989,0:33:31.220  
issues that go with how the Division of Enforcement  
frames its responsibilities and conducts those

0:33:31.220,0:33:38.220  
responsibilities. It has to be proactive,  
not reactive, and its results have to be aimed

0:33:38.859,0:33:44.200  
at remediation, not penalties. Penalties are  
the function of the Justice Department. In

0:33:44.200,0:33:50.830

that respect, I would advocate very strongly the Chairman Decl. Pg 21 of 73 for beefing up a Criminal Securities Office

0:33:50.830,0:33:55.279  
in the Department of Justice so that the agency doesn't have to rely upon the Southern District

0:33:55.279,0:33:58.259  
of New York which has limited jurisdiction.

0:33:58.259,0:34:02.159  
Just in closing, I want to mention what I think is the most important recommendation

0:34:02.159,0:34:09.159  
of all, the need for a special study of the securities markets. In 1961, the SEC was similarly

0:34:09.230,0:34:13.160  
troubled, the markets were in similar upheaval.

0:34:13.160,0:34:18.780  
Congress appropriated funds to create a special study of the securities market. A group of

0:34:18.780,0:34:24.640  
technocrats, experienced people in government and from industry spent 18 months studying

0:34:24.640,0:34:31.640  
the markets and studying how the SEC functioned. They issued a five volume report that literally

0:34:31.820,0:34:38.419  
for 25 years was the touchstone for everything the SEC did. I think we need another one.

0:34:38.419,0:34:40.950  
Thank you very much for the time. I am happy to answer questions.

0:34:40.950,0:34:43.000  
[Mr. McHenry] Thank you, Mr. Katz.

0:34:43.000,0:34:44.550  
Mr. Crimmins, you are recognized for five minutes.

0:34:44.550,0:34:48.060  
[Mr. Crimmins] Thank you, Mr. Chairman.

0:34:48.060,0:34:52.450  
Chairman McHenry, Chairman Platts, Ranking Member Quigley and Ranking Member Cummings,

0:34:52.450,0:34:55.790  
thank you for hearing us today.

0:34:55.790,0:35:00.830  
Over the last decade, we have seen an explosion and the size and complexity of our capital

0:35:00.830,0:35:05.950  
markets, exponential increases in trading volume, workers doing thousands of trades

0:35:05.950,0:35:11.310  
in a few seconds instead of maybe a hundred trades a day, high speed, computer driven

0:35:11.310,0:35:17.530  
trading strategies, fragmentation of trading away from the exchanges and into dark pools

0:35:17.530,0:35:20.950  
and ECNs and 24/7 globalized stock trading.

0:35:20.950,0:35:25.940  
We have seen investment products become so complex that the sophisticated traders that

0:35:25.940,0:35:31.330 the Chaitman Decl. Pg 22 of 73  
trade them don't always fully understand  
what they are and scary systemic risk that

0:35:31.330,0:35:33.510  
threatens recurring crises.

0:35:33.510,0:35:39.280  
Now after the crash, we see many investors  
pulling out and staying out of stocks and

0:35:39.280,0:35:46.280  
mutual funds. Investors are still scared and  
sidelined with their decimated 401(k)s. Investor

0:35:46.680,0:35:52.640  
perceptions are critical. These people will  
be unwilling to continue to risk their capital

0:35:52.640,0:35:58.500  
or risk their capital again if Wall Street's  
cop on the beat becomes the cop on furlough.

0:35:58.500,0:36:03.830  
Last summer, in the depths of the worst financial  
crisis in 80 years, Congress recognized that

0:36:03.830,0:36:08.490  
the Securities and Exchange Commission needed  
twice the budget to be relevant in today's

0:36:08.490,0:36:15.220  
huge, complex and hyper-charged markets. Whatever  
issues anyone in Congress has with the SEC,

0:36:15.220,0:36:20.050  
I would respectfully suggest that the answer  
is not to starve in the wake of the crash,

0:36:20.050,0:36:23.900  
the answer is not to create an environment  
where it will be easier for the frauds just

0:36:23.900,0:36:24.920  
to prey on investors.

0:36:24.920,0:36:30.580  
Instead, the answer is for all of us, here  
and now, to commit firmly to do whatever it

0:36:30.580,0:36:36.910  
takes to make the SEC the strong and smart  
overseer that our capital markets deserve

0:36:36.910,0:36:39.310  
to recover and grow.

0:36:39.310,0:36:44.180  
One thing is of paramount importance. Nobody  
is asking the taxpayer for one dime to fund

0:36:44.180,0:36:50.020  
the SEC. What is often forgotten in the discussion  
is that American taxpayers pay absolutely

0:36:50.020,0:36:56.880  
nothing to run the SEC each year. Under 1996  
legislation adopted by a Republican Congress

0:36:56.880,0:37:02.760  
and a Democratic President, the money to run  
the SEC comes entirely from Wall Street transaction

0:37:02.760,0:37:07.970  
fees and assessments designed to cover the  
entire cost of the SEC's budget.

0:37:07.970,0:37:13.300  
Because of this a substantially increased  
SEC appropriation paid for with this successful

15-year old funding mechanism would require no tax dollars whatsoever and would add nothing

0:37:19.600,0:37:25.480  
to the deficit. In short, the Wall Street user fee money is already there. Congress

0:37:25.480,0:37:28.640  
just has to let the SEC use it to police Wall Street.

0:37:28.640,0:37:35.640  
Madoff was a tragedy. The SEC missed Madoff and Chairman Schapiro and others have not

0:37:37.860,0:37:44.310  
tried to evade or run away from that fact, but so did FINRA whose predecessor installed

0:37:44.310,0:37:49.130  
Madoff as its Vice Chairman, and so did the Justice Department, and so did the New York

0:37:49.130,0:37:54.060  
Attorney General with Madoff right in his own backyard, and so did how many others,

0:37:54.060,0:37:58.920  
including the sophisticated financial services firms that regularly interacted with him.

0:37:58.920,0:38:04.860  
Madoff was an industry icon and idol and nobody knew that he was really a crook.

0:38:04.860,0:38:11.240  
Yet, through thick and thin, the SEC was out there bringing almost 700 complex cases for

0:38:11.240,0:38:16.860  
enforcement every year against almost 2,000 defendants every year and with greater funding,

0:38:16.860,0:38:19.030  
could have brought far more.

0:38:19.030,0:38:23.690  
We hear criticism of the SEC's recently departed General Counsel, David Becker. His

0:38:23.690,0:38:29.510  
power, I suggest, is misunderstood. He was not the Secretary of some Cabinet level department.

0:38:29.510,0:38:35.580  
Instead, he was the General Counsel, one of multiple senior advisors at a five member,

0:38:35.580,0:38:41.830  
bipartisan commission, composed of two Republicans, two Democrats and one independent.

0:38:41.830,0:38:46.790  
Whatever his power, the point is that he did not use it to benefit himself. The month after

0:38:46.790,0:38:53.300  
he left the agency still to this day, it remains unclear exactly how any of the Madoff related

0:38:53.300,0:39:00.070  
claims are ultimately going to be calculated. In any event, the Madoff Trustee, Irving Packard

0:39:00.070,0:39:03.790  
reports to the court, not to the SEC, and he will make his own decisions on what he

0:39:03.790,0:39:05.900  
wants to claim.

0:39:05.900,0:39:10.380

Finally, we need some perspective. What we  
are talking about is whether the Dorothy Becker

0:39:10.380,0:39:16.590

estate will get to keep the \$500,000 that  
Dorothy originally invested or whether it

0:39:16.590,0:39:22.190

will also get to keep some small amount on  
top, the inflation adjustment. That seems

0:39:22.190,0:39:26.390

to be where this is all breaking down and  
being discussed.

0:39:26.390,0:39:31.660

The senior ethics official with whom Becker  
consulted ruled that whatever theoretical

0:39:31.660,0:39:37.150

conflict this may actually have presented,  
it did not create such a conflict that he

0:39:37.150,0:39:42.500

needed to recuse himself, based on what was  
known at that time. The possibility of a claim

0:39:42.500,0:39:48.420

against this estate of a particular type at  
some future date was at that time speculative.

0:39:48.420,0:39:51.690

Now we know more, of course.

0:39:51.690,0:39:55.030

[Mr. McHenry] Thank you for your testimony.

0:39:55.030,0:39:58.110

Ms. Chaitman, you are recognized for five  
minutes.

0:39:58.110,0:40:05.110

[Ms. Chaitman] Thank you so much for giving  
me this opportunity to speak to you. I speak

0:40:09.940,0:40:16.940

on behalf of approximately 500 Madoff investors  
whom I represent and I speak, as well, on

0:40:17.640,0:40:24.250

behalf of every American who hopes to save  
enough money in his lifetime to retire on

0:40:24.250,0:40:31.250

that money. I speak on behalf of every American  
who relies upon the brass plaque on his broker's

0:40:31.620,0:40:38.620

desk, SIPC. We are told when we invest that  
every account is insured up to \$500,000 and

0:40:43.120,0:40:50.120

yet, SIPC has taken the position in the Madoff  
case that the law doesn't apply to it.

0:40:51.070,0:40:56.430

If I had to grade the SEC's performance  
with respect to its essential function of

0:40:56.430,0:41:03.430

protecting investors with respect to the Madoff  
case, I would give the SEC and "F." The

0:41:03.770,0:41:09.390

SEC, instead of enforcing the law against  
SIPC, which it is charged by Congress with

0:41:09.390,0:41:16.390

the obligation to do, instead of enforcing

the law, we now know that in January the Chairman Decl. Pg 25 of 73

0:41:17.470,0:41:24.130  
the SEC agreed with SIPC that for the first time in its history, it would not pay SIPC

0:41:24.130,0:41:31.130  
insurance to each Madoff victim based upon the investor's last statement.

0:41:32.100,0:41:38.270  
SIPC is an insurance entity established by Congress which has the power to assess the

0:41:38.270,0:41:45.120  
Wall Street firms who raised the funds to protect investors. The statute doesn't give

0:41:45.120,0:41:52.120  
SIPC the right to define how it is going to allow a claim. The statute mandates that a

0:41:52.240,0:41:59.240  
claim is based upon the customer's last statement. Yet, the SEC joined in SIPC's

0:41:59.930,0:42:01.540  
violation of the statute.

0:42:01.540,0:42:08.540  
This is not just my opinion, this is the opinion of Chairman Garrett who has proposed H.R.

0:42:10.590,0:42:17.320  
757 and in proposing H.R. 757, which is simply a clarification of the law, one could view

0:42:17.320,0:42:24.320  
H.R. 757 as a statement to the SEC, you cannot avoid the law and SIPC cannot avoid the law.

0:42:27.870,0:42:33.750  
Mr. Garrett made a statement when he introduced this bill that SIPC has violated the law and

0:42:33.750,0:42:38.140  
the trustee in the Madoff case has violated the law.

0:42:38.140,0:42:45.140  
If you recall, in 1970 when SIPC was enacted, investors were encouraged to relinquish the

0:42:45.550,0:42:52.550  
protection of having certificated securities. That was something that Wall Street wanted.

0:42:53.160,0:43:00.160  
In exchange for relinquishment of that protection, investors were promised SIPC insurance. SIPC

0:43:01.280,0:43:08.280  
insurance was raised to \$500,000 in 1978; it was never raised thereafter.

0:43:09.120,0:43:14.090  
In the Madoff case, SIPC decided that was going to be too expensive for its Wall Street

0:43:14.090,0:43:21.090  
members and so it was going to try to come with an entirely new basis for insuring accounts.

0:43:21.760,0:43:26.760  
For the first time in SIPC's history, it decided it didn't insure the balance on

0:43:26.760,0:43:32.190  
the last statement, it only insured the net investment over the life of the account which

0:43:32.190,0:43:37.150 the Chairman Decl. Pg 26 of 73  
might have been 20 years, 30 years, 40 years.

0:43:37.150,0:43:43.460

There is no evidence that any investor in today's stock market has or what he owns

0:43:43.460,0:43:48.550

other than the statements he receives from his broker. We don't have the luxury of

0:43:48.550,0:43:55.080

going back to certificated securities. The Internal Revenue Service relies upon those

0:43:55.080,0:43:59.680

statements, every investor relies upon those statements for planning their retirement,

0:43:59.680,0:44:06.680

for their estate plans for their children.

There is no basis in law for what the SEC

0:44:06.960,0:44:08.830

did in this case.

0:44:08.830,0:44:15.490

This is not a question of insufficient funding for the SEC. This is a question of doing its

0:44:15.490,0:44:19.280

mission which is to protect the investor.

0:44:19.280,0:44:24.230

I am not here to opine on whether or not Mr. Becker had a conflict of interest. I don't

0:44:24.230,0:44:31.180

think there can be any doubt about it. Whether he advocated the constant dollar adjustment,

0:44:31.180,0:44:37.850

which obviously reduced his own exposure, or whether he said to the SEC when he came

0:44:37.850,0:44:44.470

onboard in February 2009, you have made an illegal agreement with SIPC which would have

0:44:44.470,0:44:51.250

worked to his advantage, his judgment was clouded because everyone in the SEC forgot

0:44:51.250,0:44:53.090

the law.

0:44:53.090,0:44:58.080

There is one way to remedy this and to restore confidence in the capital markets for the

0:44:58.080,0:45:03.570

average American. That is to enact H.R. 757.

0:45:03.570,0:45:05.500

Thank you.

0:45:05.500,0:45:11.090

[Mr. McHenry] Thank you for your testimony. I thank the panel for its testimony. With

0:45:11.090,0:45:17.200

that, we will begin questioning on our side by Dr. Gosar of Arizona. He is recognized

0:45:17.200,0:45:17.800

for five minutes.

0:45:17.800,0:45:22.790

[Mr. Gosar] Chairman Schapiro, when David Becker, your brand new General Counsel, first

0:45:22.790,0:45:28.410 the Chaitman Decl. Pg 27 of 73

came to you in February 2009 and said, my mother had an account with Bernie Madoff,

0:45:28.410,0:45:32.230

why didn't you ask him any questions about it? Why didn't you even ask simple questions

0:45:32.230,0:45:33.230

like, how much money?

0:45:33.230,0:45:39.290

[Ms. Schapiro] Congressman, to the best of my recollection, and just so I can be clear,

0:45:39.290,0:45:43.560

I haven't looked at any emails or whether there might be any contemporaneous notes or

0:45:43.560,0:45:47.770

anything like that in this period of time, so I am recalling back because our Inspector

0:45:47.770,0:45:50.850

General is looking at all that, so I am recalling two years ago.

0:45:50.850,0:45:56.230

The best of my recollection was that Mr. Becker told me that his mother, who had passed away

0:45:56.230,0:46:03.230

years ago, had an account at Madoff. Because the account was closed years before, I did

0:46:05.090,0:46:09.550

not think that the account of a long deceased relative would raise an issue of a conflict

0:46:09.550,0:46:12.730

of interest in Mr. Becker's work.

0:46:12.730,0:46:17.780

I did expect that he would go to the Ethics Counsel, an experienced government official,

0:46:17.780,0:46:23.510

a government lawyer who served under three Chairmen at the SEC, and we use our Ethics

0:46:23.510,0:46:28.500

Counsel all the time for their advice. I expected him to run it by the Ethics Counsel and to

0:46:28.500,0:46:35.100

follow their advice and that is the way it went forward.

0:46:35.100,0:46:41.490

[Mr. Gosar] It seems that if the same situation existed in a publicly trade company that you

0:46:41.490,0:46:47.390

were investigating, would you have such a cavalier approach to that?

0:46:47.390,0:46:53.460

[Ms. Schapiro] It is hard for me to imagine this situation. These are the government ethics

0:46:53.460,0:46:53.710

rules.

0:46:53.520,0:46:56.010

[Mr. Gosar] An ethics rule nonetheless.

0:46:56.010,0:47:01.560

[Ms. Schapiro] It is very hard to answer in the abstract. It would depend on the rule.

0:47:01.560,0:47:07.150

[Mr. Gosar] It just seems there is the Chairman Decl. Pg 28 of 73  
different aspect that what is good in the

0:47:07.150,0:47:11.180

private sector and publicly trade situations  
is not going well for the government.

0:47:11.180,0:47:17.870

Let us go to my next question. Ms. Chaitman,  
do you believe the account valuation method

0:47:17.870,0:47:22.090

that David Becker recommended to the Commission  
as its attorney would have befitting his personal

0:47:22.090,0:47:22.970

financial interest?

0:47:22.970,0:47:28.750

[Ms. Chaitman] There is no question that the  
constant dollar approach, which apparently

0:47:28.750,0:47:34.800

Mr. Becker invented, would benefit him personally  
and reduce his clawback exposure, but the

0:47:34.800,0:47:40.030

more significant problem with the conflict  
of interest Mr. Becker had is that it clouded

0:47:40.030,0:47:46.830

his judgment. The law is absolutely clear  
that every investor is entitled to SIPC insurance

0:47:46.830,0:47:53.450

based on his last statement. Mr. Becker had  
an obligation, as General Counsel of the SEC,

0:47:53.450,0:47:58.730

to make sure that the SEC complied with the  
law and enforced it against SIPC. That is

0:47:58.730,0:48:02.790

the great failure which has caused devastation  
to all of my clients.

0:48:02.790,0:48:09.790

[Mr. Gosar] Chairman Schapiro, your agency's  
Inspector General compiled a 457-page report

0:48:13.180,0:48:19.990

about the SEC's failure to uncover Madoff's  
ponzi scheme. That report devotes two sections

0:48:19.990,0:48:26.110

out of 11 to describing in great detail every  
possible connection between SEC employees

0:48:26.110,0:48:27.270

and Madoff.

0:48:27.270,0:48:31.530

Do you think that your General Counsel's  
receiving funds from a Madoff account would

0:48:31.530,0:48:35.110

have been appropriate material, the Inspector  
General or not?

0:48:35.110,0:48:39.790

[Ms. Schapiro] That would be a much better  
question for the Inspector General. I have

0:48:39.790,0:48:44.940

a pretty high level of confidence that he  
did quite a thorough report on the agency's

0:48:44.940,0:48:46.450

failures with respect to Madoff.

0:48:46.450,0:48:53.450

[Mr. Gosar] The Inspector General's report mentions on page 382, that two family members of an employee in the Office of Internet Enforcement invested \$1.5 million and \$500,000

0:48:53.630,0:48:59.790  
members of an employee in the Office of Internet Enforcement invested \$1.5 million and \$500,000

0:48:59.790,0:49:04.210  
respectively with Madoff. The Inspector General found it necessary to make sure that this

0:49:04.210,0:49:07.690  
employee had no involvement in any Madoff examination.

0:49:07.690,0:49:12.550  
Do you think that the Inspector General would have been interested in a similar situation

0:49:12.550,0:49:17.370  
involving your chief lawyer, a senior SEC official who served as General Counsel from

0:49:17.370,0:49:22.350  
2000 to 2002 while the SEC was ignoring whistleblower complaints about Madoff?

0:49:22.350,0:49:27.700  
[Ms. Schapiro] I can't predict. I can imagine that he might have been and of course he is

0:49:27.700,0:49:32.000  
looking at all of these issues now. I expect that he will thoroughly explore that.

0:49:32.000,0:49:39.000  
[Mr. Gosar] I understand that you inherited a horrific problem but it always starts with

0:49:39.210,0:49:46.210  
top down. Private sector, businesses always look at accountability within the hierarchy.

0:49:46.560,0:49:53.350  
It seems like we have a two-edge sword here that we should have demanded better accountability.

0:49:53.350,0:49:53.900  
Would you agree?

0:49:53.900,0:49:58.660  
[Ms. Schapiro] Congressman, I would agree that from where I sit now and understanding

0:49:58.660,0:50:03.930  
all the things that I understand now that I didn't understand in 2009, having arrived

0:50:03.930,0:50:10.930  
at the SEC and discovered that I had an agency in absolute ruin in some regards on my hands

0:50:11.350,0:50:18.350  
to manage and not knowing obviously all the steps that would be taken by the Trustee or

0:50:18.520,0:50:25.480  
the decisions the Commission would make down the road, but knowing those things now, I

0:50:25.480,0:50:27.600  
wish that Mr. Becker had recused himself, absolutely.

0:50:27.600,0:50:29.740  
[Mr. McHenry] The gentleman's time has expired.

0:50:29.740,0:50:32.710  
The gentleman from Illinois, Mr. Quigley, is recognized for five minutes.

0:50:35.350,0:50:41.620

Madam Chairman, the New York Times reported on March 5 of this year that the SEC has declined

0:50:41.620,0:50:46.990

to enforce the requirement from Dodd-Frank that would make rating agencies subject to

0:50:46.990,0:50:52.670

expert liability under the securities law. This would make rating agencies liable for

0:50:52.670,0:50:57.780

faulty ratings. Could you comment on the timeline for implementing this measure?

0:50:57.780,0:51:04.000

[Ms. Schapiro] Yes, I would be happy to. The way the rule works is that if a rating is

0:51:04.000,0:51:09.910

included in a registration statement for securities, then the rating agency must consent to having

0:51:09.910,0:51:13.040

liability. That is the Dodd-Frank requirement.

0:51:13.040,0:51:18.640

We had preexisting SEC rules that require for AXA-backed securities registration statements,

0:51:18.640,0:51:24.760

that if a rating was used to sell the securities, the rating needed to be included in the registration

0:51:24.760,0:51:29.270

statement. Rating agencies have absolutely, unequivocally -- at least the ones that are

0:51:29.270,0:51:35.700

in existence now -- refused to consent. That made public offerings of AXA-backed securities

0:51:35.700,0:51:40.470

impossible because they couldn't get the consent of the rating agencies to include

0:51:40.470,0:51:43.980

the ratings, but they used the ratings to sell the securities.

0:51:43.980,0:51:50.520

We temporarily set aside our rule, our requirement that the AXA backed issuers disclose the ratings

0:51:50.520,0:51:54.920

in the registration statements because we didn't want to be holding up all public

0:51:54.920,0:51:59.540

offerings of AXA-backed securities and pushing them into the private markets which we felt

0:51:59.540,0:52:04.520

were not as good for investors.

0:52:04.520,0:52:10.450

Right now, our staff is working through reconsideration of our disclosure requirements. I believe

0:52:10.450,0:52:14.780

they will recommend that we eliminate our preexisting requirement for including the

0:52:14.780,0:52:18.120

ratings and therefore, the liability provisions can go forward.

We are also hopeful that some of the newer rating agencies that have indicated an interest

0:52:23.180,0:52:28.290  
in becoming registered with us will actually be willing to consent, which is I think how

0:52:28.290,0:52:29.610  
Congress hoped the law would work.

0:52:29.610,0:52:32.280  
[Mr. Quigley] Can you guess on the timeframe for that?

0:52:32.280,0:52:36.550  
[Ms. Schapiro] I can't but I would be more than happy to. I would say over the next couple

0:52:36.550,0:52:39.960  
of months, but I would be happy to get you a more definitive answer right away.

0:52:39.960,0:52:45.410  
[Mr. Quigley] Thank you. You talked about the agency that you inherited and you talked

0:52:45.410,0:52:52.410  
to a certain extent about the reforms necessary and those you have implemented. As to Mr.

0:52:52.480,0:52:58.490  
Katz's point, whether or not more assets, and I think you need the assets to do your

0:52:58.490,0:53:05.490  
job, help more than the need for in a sense restructuring, reforming and reinventing yourself.

0:53:05.780,0:53:10.960  
Are you looking at the agency from that perspective and the broader picture? If you were to start

0:53:10.960,0:53:12.710  
over, what would you do and how would you do it?

0:53:12.710,0:53:17.190  
[Ms. Schapiro] Absolutely. I actually would do again many of the things we have already

0:53:17.190,0:53:22.140  
done. This has been an agency that has been sort of taken upside down and shaken pretty

0:53:22.140,0:53:27.440  
hard over the last two years -- new leadership across the board in every major office and

0:53:27.440,0:53:32.150  
division, a new Chief Operating Officer, a new Chief Ethics Counsel, our first ever Chief

0:53:32.150,0:53:33.250  
Compliance Officer.

0:53:33.250,0:53:38.370  
We also restructured our Enforcement Division and put people into specialized groups where

0:53:38.370,0:53:43.300  
they could get deep expertise to bring enforcement cases more quickly in particular areas like

0:53:43.300,0:53:46.790  
structured products or the Foreign Corrupt Practices Act or insider trading.

0:53:46.790,0:53:52.330  
We have also restructured our examination program, both of those, enforcement and examination,

0:53:52.330,0:53:57.980

largely in response to the failures that were  
so vividly demonstrated in the Inspector General's

0:53:57.980,0:53:59.350  
report on Madoff.

0:53:59.350,0:54:05.610

We have also brought new technology, which  
is going to be critical to us. We have too

0:54:05.610,0:54:08.920

many people doing low value work because we  
don't have the technology.

0:54:08.920,0:54:10.790

[Mr. Quigley] What do you mean low value work?

0:54:10.790,0:54:14.790

[Ms. Schapiro] For example, when we bring  
enforcement cases, we bring in massive amounts

0:54:14.790,0:54:21.530

of electronic data so that we can look at  
trading records or we can look at email transmissions

0:54:21.530,0:54:24.490

between parties who might be sharing non-public  
information.

0:54:24.490,0:54:31.110

We need to be able to use analytics to find  
the important information and all of that,

0:54:31.110,0:54:37.150

not have people plowing through all that information.  
When the markets fell so dramatically on May

0:54:37.150,0:54:41.910

6, it took us five months to reconstruct trading  
data because we don't have the capacity

0:54:41.910,0:54:42.740

in the SEC.

0:54:42.740,0:54:47.720

[Mr. Quigley] That was the final question  
we have limited time. Are you a technological

0:54:47.720,0:54:50.200

match for those that you are regulating?

0:54:50.200,0:54:54.320

[Ms. Schapiro] Not at the moment, we aren't.  
We have a phenomenal new Chief Information

0:54:54.320,0:55:00.140

Officer who is making real progress, I think,  
but we are a long way from the people that

0:55:00.140,0:55:05.490

we are regulating in terms of our technical  
capability, but I think we can get there.

0:55:05.490,0:55:08.480

I think we can put up a good fight anyway.

0:55:08.480,0:55:10.500

[Mr. Quigley] Thank you. I yield back.

0:55:10.500,0:55:16.230

[Mr. McHenry] I thank the gentleman. I now  
recognize the Vice Chair of the TARP, Financial

0:55:16.230,0:55:20.020

Services and Bailouts Subcommittee, Mr. Guinta  
of New Hampshire, for five minutes.

0:55:20.020,0:55:22.170

[Mr. Guinta] Thank you very much, Mr. Chairman.

0:55:22.170,0:55:27.410

Mr. Katz, thank you and thank all of the witnesses  
for being here today. wanted to direct my

0:55:27.410,0:55:28.990

first question to you, sir.

0:55:28.990,0:55:33.750

In your testimony, you talked about the size,  
structure and complexity of the U.S. capital

0:55:33.750,0:55:38.700

markets and financial companies that have  
grown substantially in the past 30 years.

0:55:38.700,0:55:45.700

I think your position is that you are comparing  
the SEC over that same period of time and

0:55:46.470,0:55:51.740

the fact that it has not grown, changed or  
modified substantially. I wanted to get a

0:55:51.740,0:55:54.550

little clarification on that first, if you  
would.

0:55:54.550,0:56:01.550

[Mr. Katz] Obviously I think everyone would  
agree that the capital markets of today are

0:56:02.570,0:56:07.110

exponentially greater, but my point was more  
directed to the way the SEC is structured.

0:56:07.110,0:56:11.440

It is not just a question of size; it is a  
question of a structure that corresponds to

0:56:11.440,0:56:16.750

the entities you are regulating. The point  
I was making is that in the early 1970s when

0:56:16.750,0:56:22.700

basically the current organizational structure  
of the SEC was last reformed, you had market

0:56:22.700,0:56:29.540

regulation that focused on stock exchanges  
and broke dealers. You had a Division of Investment

0:56:29.540,0:56:35.380

Management Regulation which focused on mutual  
funds and investment advisors. They were two

0:56:35.380,0:56:40.820

very separate components of the industry and  
there really was very little overlap.

0:56:40.820,0:56:47.820

That no longer exists. Because of consolidation  
in the industry and the blending of the roles,

0:56:50.580,0:56:55.460

the fundamental distinction between a stock  
broker who is a commission-based seller of

0:56:55.460,0:57:02.460

securities and an investment advisor, who  
is an under management advisor on a comprehensive

0:57:04.070,0:57:07.670

portfolio, is a historical artifact. It doesn't  
exist.

0:57:07.670,0:57:14.670

Because you have two divisions upon two different  
laws, according to a model that no longer

0:57:15.040,0:57:20.760

exists, you get these anomalies. The Chairman Decl. Pg 34 of 73  
over fiduciary duty differential was embedded

0:57:20.760,0:57:26.110  
in the laws but more importantly, you had  
two different divisions who had different

0:57:26.110,0:57:31.750  
ways of thinking about it and neither of them  
wanted to compromise. They both wanted to

0:57:31.750,0:57:33.570  
maintain their piece of it.

0:57:33.570,0:57:38.270  
[Mr. Guintal] Does that speak a little bit  
to the silo effect that you have been referring

0:57:38.270,0:57:38.760  
to?

0:57:38.760,0:57:45.760  
[Mr. Katz] Absolutely. I used to joke that  
the silos at the SEC were so real that in

0:57:46.270,0:57:51.020  
fact, that they had locked doors and that  
because all the paper in the agency used to

0:57:51.020,0:57:54.340  
have to come through my office, I actually  
had a skeleton key that occasionally allowed

0:57:54.340,0:58:01.340  
me to unlock each of the silo doors and get  
inside. Most people don't. Turf is a real

0:58:02.780,0:58:07.610  
issue in any organization, no matter what  
the size. It is compounded because remember

0:58:07.610,0:58:11.620  
you have different securities laws that were  
written at different points of time for different

0:58:11.620,0:58:18.620  
segments of the industry. Each division sort  
of jealousy guards the law that it controls.

0:58:19.210,0:58:20.150  
The market has changed.

0:58:20.150,0:58:26.730  
[Mr. Guintal] I listened to what Chairman Schapiro  
mentioned in her earlier comments about some

0:58:26.730,0:58:33.360  
of the improvements, modifications and changes  
that she has made and they sound laudable

0:58:33.360,0:58:40.010  
and responsible. That being said, I wonder  
what type of congressional action may or may

0:58:40.010,0:58:47.010  
not be necessary given the systemic problem  
that we have seen within the SEC. I don't

0:58:47.740,0:58:54.510  
want to get into the specifics, but the things  
we have been talking about here. We have to

0:58:54.510,0:58:59.630  
prevent these from happening again. People  
in our Nation need to have confidence, not

0:58:59.630,0:59:06.480  
just in the SEC, but in the markets as well.  
I wonder what you could say about the type

0:59:06.480,0:59:09.610

of intervention you feel Congress ~~the Chairman~~ Decl. Pg 35 of 73  
considering?

0:59:09.610,0:59:16.400

[Mr. Katz] That is a very difficult question  
for me to answer. The reason is I spent virtually

0:59:16.400,0:59:23.240

my entire career at the SEC and I think it  
is very different for Congress to micromanage

0:59:23.240,0:59:29.050

the internal organization and operations of  
a government agency. You can set policy, you

0:59:29.050,0:59:34.920

can give direction, but I think it is dangerous  
when Congress tells the agency this is how

0:59:34.920,0:59:41.920

you get it done. I think the agency really  
has to take this responsibility on. Chairman

0:59:42.410,0:59:48.080

Schapiro has brought in an entirely new team  
of senior people. I don't know most of them.

0:59:48.080,0:59:49.800

They seem very competent.

0:59:49.800,0:59:56.800

My hesitation is this. If you rely exclusively  
on a team of people coming in to effect change,

0:59:56.810,1:00:01.800

when those people walk out the door, the change  
walks out with them. You need to change the

1:00:01.800,1:00:08.010

structure, you need to change the culture  
and most importantly, you need the agency

1:00:08.010,1:00:12.270

to define what it is it is trying to do and  
how do you measure whether it has gotten it

1:00:12.270,1:00:15.540

done. You need that discipline, but that is  
for the agency to do.

1:00:15.540,1:00:16.640

[Mr. Guinta] Thank you, sir.

1:00:16.640,1:00:21.310

Chairman Schapiro, I only have a few seconds  
left, but what assurance can you give us that

1:00:21.310,1:00:26.270

new management team is effectively managing  
and maintaining the necessary changes?

1:00:26.270,1:00:30.210

[Ms. Schapiro] I have to say I think change  
starts with leadership absolutely and having

1:00:30.210,1:00:34.450

a whole new leadership team makes an enormous  
difference. They are very committed to working

1:00:34.450,1:00:38.880

together and institutionalizing cooperation  
and collaboration among all of the divisions.

1:00:38.880,1:00:43.870

For example, we now have the College of Regulators  
for the largest financial institutions. It

1:00:43.870,1:00:47.420

is no longer just the Trading and Markets  
Division that looks at them, it is no longer

1:00:47.420,1:00:53.120 the Chairman Decl. Pg 36 of 73  
just the examination group. There is a group  
of people drawn from all over the agency who

1:00:53.120,1:00:58.000  
could have potential interest in the health  
of that financial institution who meet regularly

1:00:58.000,1:01:03.930  
to talk about what is going on in that company,  
to look at the financials, to meet with the

1:01:03.930,1:01:08.010  
staff of that financial institution. So the  
College of Regulators is just one example.

1:01:08.010,1:01:13.240  
We have task forces across the agency. We  
are merging, in some of our offices and will

1:01:13.240,1:01:17.470  
eventually in all of them, our examination  
programs for investment advisors and broker

1:01:17.470,1:01:19.080  
dealers which Mr. Katz mentioned.

1:01:19.080,1:01:25.900  
Finally, I should say that we have just commissioned,  
and I believe it is going to be released today,

1:01:25.900,1:01:30.710  
Dodd-Frank required us to hire an independent  
consultant to do a very in-depth study of

1:01:30.710,1:01:35.830  
the SEC's organizational structure. That  
will be released today. I fully expect that

1:01:35.830,1:01:40.710  
there will be some really helpful ideas there  
for us to further improve how we operate.

1:01:40.710,1:01:43.900  
[Mr. McHenry] The gentleman's time has expired.  
With that, I recognize the Ranking Member,

1:01:43.900,1:01:44.900  
Mr. Towns.

1:01:44.900,1:01:48.820  
[Mr. Towns] Thank you very much, Mr. Chairman.

1:01:48.820,1:01:55.350  
Let me thank all of you for being here. I  
really appreciate you taking the time to come.

1:01:55.350,1:02:02.350  
Chairman Schapiro, the SEC plays a critical  
role in protecting investors and ensuring

1:02:02.450,1:02:09.450  
that our financial markets operate effectively.  
You have stated that freezing the SEC budget

1:02:11.710,1:02:18.710  
impedes the agency's ability to meet its  
mission, which is to protect investors, to

1:02:19.960,1:02:26.940  
maintain fair, orderly and efficient markets,  
and facilitate capital information. Can you

1:02:26.940,1:02:32.290  
put that in concrete terms for us?

1:02:32.290,1:02:39.290  
If the SEC does not have the budget to properly  
oversee capital markets, how would effect

1:02:40.910,1:02:41.910

1:02:41.910,1:02:47.100

[Ms. Schapiro] Yes, sir, I would be happy  
to. I think the two things that are most severely

1:02:47.100,1:02:52.940

impacted by a limited budget at the SEC are  
capability to hire the new kinds of talent

1:02:52.940,1:02:58.340

and expertise we need, economists, people  
who worked in hedge funds on trading desks,

1:02:58.340,1:03:03.080

financial analysts, the new expertise that  
will help us keep up with what is going on

1:03:03.080,1:03:03.900

in the marketplace.

1:03:03.900,1:03:10.900

The second is the fact that it will slow down  
and really hurt our efforts at reforming our

1:03:10.990,1:03:16.420

technology and bringing it up to speed and  
giving us the capacity to do the things we

1:03:16.420,1:03:21.210

need to do in order to keep up with Wall Street.  
I know we will never meet their budgets. I

1:03:21.210,1:03:24.470

understand that. I have no expectation and  
don't believe the American public should

1:03:24.470,1:03:29.920

pay for us to have a \$3 billion a year technology  
budget, but we have to do much better than

1:03:29.920,1:03:31.610

we have been able to do.

1:03:31.610,1:03:36.490

I think those are the two primary things that  
are really impacted. It plays out in lots

1:03:36.490,1:03:42.460

of other ways. When we don't have a sufficient  
travel budget, examiners can't travel to

1:03:42.460,1:03:48.220

go into that mutual fund where most Americans  
hold their investing wealth, and examine the

1:03:48.220,1:03:53.810

mutual fund's books and records. They can't  
go to the investment advisor or to the broker

1:03:53.810,1:03:54.670

dealer.

1:03:54.670,1:04:01.260

In little ways, the lack of resources plays  
out but the real fundamental ways are bringing

1:04:01.260,1:04:07.140

in those people that we need to really reform  
and transform the agency so people know that

1:04:07.140,1:04:12.190

we have at least a fighting chance at staying  
on top of what is happening on Wall Street

1:04:12.190,1:04:18.140

so we can also respond when the emergencies  
come along as we saw on May 6 when the market

1:04:18.140,1:04:24.190

absolutely fell apart, scared people very

1:04:24.190,1:04:28.910  
the institutional investing public as well.  
We need the capability to respond to those

1:04:28.910,1:04:30.090  
things very, very quickly.

1:04:30.090,1:04:35.470  
[Mr. Towns] What about the flexibility? Do you have that? For instance, if there is a

1:04:35.470,1:04:42.470  
crisis situation and you need a specific type of person and in order to get that person,

1:04:43.140,1:04:47.660  
you might need additional resources to be able to track who you need to do the job at

1:04:47.660,1:04:50.970  
that particular time, do you have that kind of flexibility?

1:04:50.970,1:04:55.250  
[Ms. Schapiro] We have had some flexibility over the last two years because Congress has

1:04:55.250,1:05:01.400  
been generous in our budget, but if we continue with the CR level or are cut, the answer to

1:05:01.400,1:05:08.400  
that is no. May 6 required us to go out and bring in experts to help us analyze and go

1:05:09.950,1:05:15.120  
through all the trading data so we could reconstruct for the public to see what was happening every

1:05:15.120,1:05:22.120  
second in the marketplace when the Dow dropped 500 points in a matter of a few minutes.

1:05:24.090,1:05:30.610  
Responding to emergencies is one of the things I do worry about. That is where we lose flexibility

1:05:30.610,1:05:34.020  
if we don't have a sufficient appropriation.

1:05:34.020,1:05:38.110  
[Mr. Towns] Thank you, very much. On that note, I yield back.

1:05:38.110,1:05:42.790  
[Mr. McHenry] Thank you. With that, I recognize Mr. Mack from Florida for five minutes.

1:05:42.790,1:05:47.920  
[Mr. Mack] Thank you, Mr. Chairman. I also want to thank the panel for being here today

1:05:47.920,1:05:54.920  
to give us an opportunity to get your insights and to ask a few questions on a very serious

1:05:55.550,1:05:56.780  
topic.

1:05:56.780,1:06:03.780  
I would like to start with Chairman Schapiro, if I might. Do you feel as Chair of the agency

1:06:03.980,1:06:09.480  
that ultimately it is your responsibility to ensure that all of the employees are acting

1:06:09.480,1:06:13.050  
in accordance with SEC employee conduct standards?

1:06:13.050,1:06:20.050

[Ms. Schapiro] I have responsibility for the agency in that sense. I cannot tell you that

1:06:20.770,1:06:26.560

with 3,800 employees, I can take individual responsibility for each and ever one to ensure

1:06:26.560,1:06:30.190

that they are following the requirements the way they should be.

1:06:30.190,1:06:37.190

[Mr. Mack] Ultimately, it is your responsibility as the Chair of the SEC?

1:06:37.220,1:06:40.710

[Ms. Schapiro] Ultimately, I am responsible for the agency's conduct.

1:06:40.710,1:06:46.510

[Mr. Mack] If I could direct your attention to slide number four, Chairman Schapiro, are

1:06:46.510,1:06:50.280

you familiar with the rule that is being presented on the screen?

1:06:50.280,1:06:50.530

[Ms. Schapiro] Yes.

1:06:50.470,1:06:57.470

[Mr. Mack] After reading through my material and hearing your testimony, it seems to me

1:06:59.760,1:07:06.460

that you weren't completely knowledgeable of this rule at the time you hired David Becker.

1:07:06.460,1:07:13.460

Please allow me to read it so everyone in the room can understand the entire rule.

1:07:13.710,1:07:18.700

"The Securities and Exchange Commission has been entrusted by Congress with the protection

1:07:18.700,1:07:25.700

of the public interest in a highly significant area of our national economy. In view of the

1:07:26.800,1:07:33.160

effect which Commission action frequently has on the general public, it is important

1:07:33.160,1:07:39.480

that members, employees and special government employees maintain unusually high standards

1:07:39.480,1:07:46.480

of honesty, integrity, impartiality and conduct. They must be constantly aware of the need

1:07:47.520,1:07:54.520

to avoid situations which might result either in actual or apparent misconduct or conflicts

1:07:54.990,1:08:01.990

of interest and to conduct themselves in the official relationships in a manner which commands

1:08:02.250,1:08:06.850

the respect and confidence of their fellow citizens."

1:08:06.850,1:08:11.790

Chairman Schapiro, were you familiar with this rule at the time that you received David

1:08:11.790,1:08:13.270

1:08:13.270,1:08:18.250

[Ms. Schapiro] I can't tell you whether I had read it. I have been in and out of government

1:08:18.250,1:08:20.929

most of my career, so I am generally aware of the ethics rules.

1:08:20.929,1:08:27.929

[Mr. Mack] I only have a little bit of time. A moment ago, you said you were familiar with

1:08:28.909,1:08:29.210

the rule.

1:08:29.210,1:08:36.210

[Ms. Schapiro] I am but you just asked me was I aware of it at the time that David Becker

1:08:37.049,1:08:41.460

arrived at the Commission. I am telling you I can't recall whether I had reread the

1:08:41.460,1:08:43.730

rule recently at that point or not.

1:08:43.730,1:08:47.799

[Mr. Mack] Throughout your time in the 1980s and 1990s, you were familiar with this rule?

1:08:47.799,1:08:52.690

[Ms. Schapiro] Yes, I am generally aware of the ethics rules and that it is each employee's

1:08:52.690,1:08:52.940

obligation.

1:08:52.690,1:08:56.420

[Mr. Mack] Regarding David Becker's work with the Madoff case, do you believe that

1:08:56.420,1:09:03.420

Mr. Becker was sufficiently aware of the need to avoid actual or apparent conflicts of interest?

1:09:04.509,1:09:11.509

[Ms. Schapiro] I want to be very careful. I believe he did what he thought was appropriate

1:09:13.170,1:09:17.499

and what was required of him, going to the Ethics Counsel and seeking advice, getting

1:09:17.499,1:09:22.699

that advice and following it. Do I wish now that he had been more sensitive to the potential

1:09:22.699,1:09:28.679

for this issue to raise an appearance of a conflict? Yes, I wish that had happened.

1:09:28.679,1:09:32.609

[Mr. Mack] A few more questions. Do you think that you were sufficiently aware of the need

1:09:32.609,1:09:35.249

to avoid actual or apparent conflicts of interest?

1:09:35.249,1:09:38.839

[Ms. Schapiro] On my part, yes. I believe I am.

1:09:38.839,1:09:45.259

[Mr. Mack] You said now a couple times, I think, that you wished Mr. Becker would have

1:09:45.259,1:09:52.259

recused himself. Is that because of the fallout or do you really believe he should have recused

1:09:52.650,1:09:52.900  
himself?

1:09:52.650,1:09:59.650  
[Ms. Schapiro] I believe, as I said, at the time from my perspective, a close account

1:10:01.320,1:10:06.739  
from a long since deceased relative didn't appear to me to raise a conflict of interest,

1:10:06.739,1:10:12.130  
but I believe now, knowing what we know now, not because of the fallout, though that is

1:10:12.130,1:10:17.199  
very real, but because if we could connect the dots and look ahead and see what all the

1:10:17.199,1:10:21.530  
steps would have been, yes, it would have been appropriate to have recused.

1:10:21.530,1:10:28.530  
[Mr. Mack] Let me say this. Also earlier, you kind of referred to the budget as kind

1:10:30.579,1:10:37.539  
of the reason why some of these mistakes happened. How much does it cost to follow that rule?

1:10:37.539,1:10:42.309  
[Ms. Schapiro] That is a personal initiative. It doesn't really cost anything.

1:10:42.309,1:10:48.820  
[Mr. Mack] So the argument about the budget as it pertains to this rule, doesn't hold

1:10:48.820,1:10:55.769  
water? The argument about the budget in your opening statement that you talked about really

1:10:55.769,1:10:57.670  
doesn't pertain to this rule?

1:10:57.670,1:11:02.329  
[Ms. Schapiro] No, and I didn't mean to suggest in any way that it did.

1:11:02.329,1:11:02.860  
[Mr. Mack] Thank you.

1:11:02.860,1:11:07.389  
[Mr. McHenry] The gentleman's time has expired. With that, I recognize the Ranking Member

1:11:07.389,1:11:07.800  
of the full committee.

1:11:07.800,1:11:12.570  
[Mr. Cummings] I don't want that to be left hanging. I never heard you, and I heard all

1:11:12.570,1:11:17.789  
of your testimony and I have read your testimony, Ms. Schapiro, you never made that allegation.

1:11:17.789,1:11:23.119  
I want to make that clear. I haven't heard it. I think it is a very unfair statement.

1:11:23.119,1:11:30.119  
Let me go on. Chairman Schapiro, I must tell you that when I was talking to my staff -- as

1:11:33.699,1:11:38.960  
a matter of fact, when we were emailing back and forth at 4:00 a.m. this morning about

1:11:38.960,1:11:45.960 the Chaitman Decl. Pg 42 of 73  
this case, because it does trouble me to a  
degree with regard to the appearance of a

1:11:48.219,1:11:51.260  
conflict of interest.

1:11:51.260,1:11:58.260  
I think when we hear what Ms. Chaitman had  
to say, that shows you why, and I am sure

1:12:03.749,1:12:10.749  
you see it, we have to make sure that we don't  
even have the appearance because what happens

1:12:11.610,1:12:18.610  
is that every decision made by Mr. Becker  
then becomes suspect. It is my favorite author,

1:12:19.909,1:12:26.909  
Covey who in the book, "The Speed of Trust,"  
says that "Once trust is lost, everything

1:12:27.760,1:12:34.760  
moves more slowly." So I cannot begin to  
tell you how pleased I was when you walked

1:12:35.860,1:12:42.860  
in here today and said we will go beyond what  
may be required. That is so very, very important.

1:12:44.499,1:12:50.400  
In my office, I have five people that whenever  
there is an ethics question, they all have

1:12:50.400,1:12:56.300  
to agree and if one vetoes, it is out the  
door. Why? Because the public is looking over

1:12:56.300,1:13:01.010  
our shoulders, we want to do the right thing  
and we want to make sure that it is right.

1:13:01.010,1:13:08.010  
This has been a major wake up call, hasn't  
it. Here in this committee, it is so easy

1:13:13.329,1:13:19.489  
for us to get into a gotcha mode, but I must  
tell you, after I read about what you had

1:13:19.489,1:13:24.989  
done at the SEC since you have been there,  
and having sat on this committee and watched

1:13:24.989,1:13:31.989  
Mr. Cox and what he did with this organization  
and how it went down under him, to see you

1:13:32.800,1:13:39.800  
come and try to sweep up the mess, I must  
commend you.

1:13:40.070,1:13:46.619  
The sad part about it is that one of these  
little incidents basically can almost destroy

1:13:46.619,1:13:49.630  
that trust. Do you understand what I am saying?

1:13:49.630,1:13:56.630  
So I want you to commit to this committee,  
if you will. Tell me, if these incidents come

1:13:59.920,1:14:06.920  
up again, tell us the difference in how you  
might approach it. I understand what you did.

1:14:07.480,1:14:14.179  
A fellow comes to you, he tells you, years  
ago, I got an inheritance and he wants to

1:14:14.179,1:14:19.340

know about a conflict. You listened to it  
for a while. You have 3,800 employees to deal

1:14:19.340,1:14:24.929

with, you hear him and then you say, you know  
what, the expert on this is the ethics guy.

1:14:24.929,1:14:29.409

Make sure you check with him and he got an  
opinion.

1:14:29.409,1:14:33.949

How would you deal with this differently now,  
looking backwards?

1:14:33.949,1:14:37.429

[Ms. Schapiro] We have a new Ethics Counsel,  
first of all, who is doing sort of a top to

1:14:37.429,1:14:42.840

bottom review of our program, but I think  
I need to work with all of our employees and

1:14:42.840,1:14:48.050

communicate with all of our employees about  
a heightened sensitivity to issues like this.

1:14:48.050,1:14:54.860

I have worked so hard in the last two years  
to try to put this agency back on the right

1:14:54.860,1:14:59.800

path and to earn the trust of the public.  
You are right, a small thing like this, not

1:14:59.800,1:15:04.860

so small thing like this, can really set us  
back. It is not fair to 3,800 hardworking

1:15:04.860,1:15:05.269

employees.

1:15:05.269,1:15:11.420

It is just like when somebody mentioned in  
their opening statement that employees had

1:15:11.420,1:15:18.420

viewed pornography at the SEC. It infuriates  
me because most people there are working their

1:15:18.999,1:15:23.710

hearts out day and night to try to do the  
right thing. It hurts the reputation of every

1:15:23.710,1:15:24.809

single one of us.

1:15:24.809,1:15:29.679

I have to work with our employees to make  
sure that we increase their sensitivity to

1:15:29.679,1:15:36.110

issues like this. I think with our new Ethics  
Counsel and their review of the program and

1:15:36.110,1:15:40.880

how it might be strengthened, we will get  
some good advice. I think the Inspector General

1:15:40.880,1:15:44.139

is likely to have some recommendations that  
will be very helpful too.

1:15:44.139,1:15:51.139

[Mr. Cummings] I read in your testimony where  
you talked about technology and trying to

1:15:51.260,1:15:58.260

keep up with these ever changing transactions

1:15:59.480,1:16:04.320  
to make sure you have all the resources you  
need to address this because so many of our

1:16:04.320,1:16:11.320  
constituents on both sides lost a lot of money.  
Like Mr. Crimmins said, they need confidence

1:16:11.809,1:16:14.789  
to reenter this system of stocks.

1:16:14.789,1:16:16.630  
[Ms. Schapiro] I agree.

1:16:16.630,1:16:18.280  
[Mr. Cummings] Thank you.

1:16:18.280,1:16:23.860  
[Mr. McHenry] I thank the Ranking Member.  
With that, we yield for five minutes to Mr.

1:16:23.860,1:16:24.619  
Ross of Florida.

1:16:24.619,1:16:26.510  
[Mr. Ross] Thank you, Mr. Chairman.

1:16:26.510,1:16:30.360  
As a kid, I always wanted to be a lawyer and  
fortunately I found a law school that would

1:16:30.360,1:16:35.519  
take me. I went to law school and I always  
had a deep seated respect for the sanctity

1:16:35.519,1:16:42.159  
of the law, so much so that I was gratified  
that the American Bar Association and my state

1:16:42.159,1:16:46.489  
bar association required not only a course  
but an examination on the Code of Professional

1:16:46.489,1:16:47.300  
Responsibility.

1:16:47.300,1:16:52.409  
Ms. Schapiro, I understand that you too are  
a lawyer and that even though you inherited

1:16:52.409,1:16:59.409  
quite a mess at a time of great disarray at  
the SEC, my question is as a lawyer, when

1:17:02.900,1:17:08.670  
Mr. Becker came to you, did you not think  
that a further investigation should be made?

1:17:08.670,1:17:15.360  
As a lawyer, we do conflicts checks, we make  
sure of that and it just seems to me that

1:17:15.360,1:17:22.360  
if further inquiries had been made at that  
time, this might have been avoided.

1:17:22.389,1:17:27.749  
[Ms. Schapiro] I don't disagree with you  
that if further inquiries had been made, this

1:17:27.749,1:17:33.420  
might have been avoided. I can only say what  
I said at the beginning, that when he raised

1:17:33.420,1:17:38.929  
it with me, that he had a closed account,  
I didn't know if it had been a net winner

1:17:38.929,1:17:43.969

account, a net loser account or anything else. the Chairman Decl. Pg 45 of 73 from a deceased relative, it didn't raise

1:17:43.969,1:17:45.749  
for me a conflict of interest question.

1:17:45.749,1:17:52.749  
[Mr. Ross] The fact that he asked for a waiver from his subordinate is indicative of a problem,

1:17:55.320,1:17:58.420  
an inherent internal problem there from an ethical standpoint.

1:17:58.420,1:18:04.800  
[Ms. Schapiro] I don't know that he asked for a waiver and I again, I have no access

1:18:04.800,1:18:11.699  
to any contemporaneous documents of any sort. He asked whether or not he had a conflict

1:18:11.699,1:18:14.469  
and was advised that he did not have a conflict.

1:18:14.469,1:18:18.309  
[Mr. Ross] Did you know who was advising him that there was no conflict?

1:18:18.309,1:18:22.400  
[Ms. Schapiro] It was the Ethics Counsel of the SEC at that time who is no longer the

1:18:22.400,1:18:23.219  
Ethics Counsel.

1:18:23.219,1:18:26.369  
[Mr. Ross] As General Counsel, that would be under him, would it not?

1:18:26.369,1:18:28.449  
[Ms. Schapiro] I believe that is the case in most agencies.

1:18:28.449,1:18:30.889  
[Mr. Ross] Do you feel this would be avoided again in the future?

1:18:30.889,1:18:37.889  
[Ms. Schapiro] I would love to say absolutely without a doubt, but it would be my very strong

1:18:39.349,1:18:45.489  
hope that with a very strong new Ethics Counsel that we hired from the Treasury Department

1:18:45.489,1:18:51.550  
with long government experience, with a revamping of our programs and with some additional education

1:18:51.550,1:18:55.619  
and training for our people, I would hope and expect that we could avoid this.

1:18:55.619,1:18:58.809  
[Mr. Ross] I think the American public needs that assurance that credibility is going to

1:18:58.809,1:18:59.639  
be there.

1:18:59.639,1:19:05.360  
Mr. Risinger, with regard to human resources, are your employees all part of the general

1:19:05.360,1:19:06.789  
schedule in terms of compensation?

1:19:06.789,1:19:11.179  
[Mr. Risinger] Congressman, actually we have a separate pay schedule that we received from

1:19:11.179,1:19:13.889

legislation of Congress back in 2001, 2002.

1:19:13.889,1:19:19.010

[Mr. Ross] Were you subject to the pay freeze  
that the President issued?

1:19:19.010,1:19:19.630

[Mr. Risinger] Yes, we are.

1:19:19.630,1:19:25.230

[Mr. Ross] That just really affected the cost  
of living increases, didn't it?

1:19:25.230,1:19:27.179

[Mr. Risinger] It does affect the cost of  
living increases.

1:19:27.179,1:19:30.219

[Mr. Ross] What about within pay grade or  
step increases? Did it affect that?

1:19:30.219,1:19:36.829

[Mr. Risinger] We have a merit pay process  
that is the equivalent of step increases for

1:19:36.829,1:19:40.119

the rest of the government, so that is technically  
affected by the pay freeze.

1:19:40.119,1:19:45.559

[Mr. Ross] In your disciplinary procedures,  
let me ask you this. What is the probationary

1:19:45.559,1:19:46.309

period for any employee?

1:19:46.309,1:19:47.889

[Mr. Risinger] It is generally a year.

1:19:47.889,1:19:54.659

[Mr. Ross] One year. After one year, if there  
is a disciplinary situation, is a presumption

1:19:54.659,1:20:01.429

in favor of the employee if they have been  
found in violation or alleged violation of

1:20:01.429,1:20:03.159

any personnel policies?

1:20:03.159,1:20:08.249

[Mr. Risinger] The Federal laws that we have  
to follow in terms of disciplining employees

1:20:08.249,1:20:11.729

set out a number of standards that we have  
to go through. There are actually 12 factors

1:20:11.729,1:20:16.690

that you have to look at when you are issuing  
discipline and one of them is a factor that

1:20:16.690,1:20:21.090

says, is this the level of discipline that  
is necessary to stop the behavior and not

1:20:21.090,1:20:26.710

more than that. So there is a presumption  
that you are taking a preventive or corrective

1:20:26.710,1:20:29.019

step, not necessarily a punitive step.

1:20:29.019,1:20:31.329

[Mr. Ross] These would have been the same  
procedures employed in those involved in the

1:20:31.329,1:20:32.210

viewing of pornography, correct?

1:20:32.210,1:20:33.030

[Mr. Risinger] That is correct.

1:20:33.030,1:20:36.900

[Mr. Ross] Only one person was fired as a result of that?

1:20:36.900,1:20:43.900

[Mr. Risinger] Of the cases we have had since 2005, 50 percent or 51 percent have either

1:20:45.130,1:20:51.309

resigned, retired or have proposed removals in place. We have had a number of suspensions

1:20:51.309,1:20:52.300

and reprimands as well.

1:20:52.300,1:20:56.070

[Mr. Ross] What is the attrition rate in your agency?

1:20:56.070,1:21:01.800

[Mr. Risinger] In the agency, in normal years, it is 7 to 8 percent. In the last couple of

1:21:01.800,1:21:06.309

years because of the economy, it has been in the 3-1/2 to 4 percent range.

1:21:06.309,1:21:09.030

[Mr. Ross] How does that compare with Federal agencies overall?

1:21:09.030,1:21:16.030

[Mr. Risinger] If we are talking just attrition in general, I think that is pretty equivalent

1:21:16.820,1:21:17.749

with other agencies.

1:21:17.749,1:21:24.749

[Mr. Ross] Last question. Ms. Chaitman, with regard to the Madoff situation specifically,

1:21:25.039,1:21:32.039

I saw where you put them on notice, what was going on. What action do you think would have

1:21:36.979,1:21:39.969

requested be done in order to avoid this conflict?

1:21:39.969,1:21:45.999

[Ms. Chaitman] Under the statute, Congress mandated that the SEC go into court and enforce

1:21:45.999,1:21:51.979

the law against SIPC. That is precisely what I asked Ms. Schapiro to do in my April 2,

1:21:51.979,1:21:58.469

2009 letter. In fact, when Ms. Schapiro testified on July 14 before the Subcommittee on Capital

1:21:58.469,1:22:04.460

Markets that she was going to do everything in her power to provide the maximum SIPC coverage

1:22:04.460,1:22:10.039

for all investors, I assumed that she was, in fact, going to follow my request. Now I

1:22:10.039,1:22:17.039

have learned that in January 2009, the SEC had already agreed with denial of SIPC insurance

1:22:17.999,1:22:19.400

to more than half of the victims.

1:22:19.400,1:22:22.190

[Mr. Ross] Thank you. I yield back the Chaitman Decl. Pg 48 of 73

1:22:22.190,1:22:24.909

[Mr. McHenry] Thank you. Mr. Yarmoth of Kentucky  
for five minutes.

1:22:24.909,1:22:26.619

[Mr. Yarmoth] Thank you, Mr. Chairman.

1:22:26.619,1:22:28.719

Thanks to all the witnesses for your testimony.

1:22:28.719,1:22:35.340

Over the last couple weeks I have been plowing  
my way through the Financial Crisis Inquiry

1:22:35.340,1:22:41.239

Report which is anything but bedtime reading.  
It will not put you to sleep, I guarantee

1:22:41.239,1:22:43.679

you that -- as a matter of fact, quite the  
contrary.

1:22:43.679,1:22:50.090

I am sure, Chairman Schapiro, that you are  
aware of what the report concluded, particularly

1:22:50.090,1:22:57.090

with regard to the SEC. I was interested in  
an assessment of where you think you still

1:22:59.079,1:23:04.360

need to go to make sure that the failings  
in the system as it concerned your agency

1:23:04.360,1:23:06.130

won't recur?

1:23:06.130,1:23:12.570

[Ms. Schapiro] As I have not looked at the  
report recently, it obviously focused a lot

1:23:12.570,1:23:18.900

on the failures of the SEC's Consolidated  
Supervision Program for the five largest investment

1:23:18.900,1:23:23.179

banks, all of which during the financial crisis  
essentially disappeared or converted to bank

1:23:23.179,1:23:27.780

holding companies under the regulation of  
the Fed. I think there are a lot of lessons.

1:23:27.780,1:23:34.469

I testified before the FCIC about the failures  
of the agency with respect to that program.

1:23:34.469,1:23:38.749

There are a couple of things. One is that  
it was a voluntary program, a voluntary regulatory

1:23:38.749,1:23:45.749

program which, in my view, doesn't work  
very well. We had insufficient resources devoted

1:23:48.659,1:23:53.679

to the regulation of the five largest investment  
banks. We didn't have people with the right

1:23:53.679,1:23:59.469

kind of expertise and I think in some ways  
perhaps the most important thing is it required

1:23:59.469,1:24:03.079

a very different kind of supervision than  
the SEC has traditionally done. It required

1:24:03.079,1:24:09.579

prudential supervision as opposed to the SEC's

1:24:09.579,1:24:11.530  
and then perhaps bringing an enforcement case.

1:24:11.530,1:24:16.550  
We didn't have the right mindset within  
the agency I think for that kind of constant

1:24:16.550,1:24:22.949  
prudential oversight approach that was really  
necessary. There was a lack of management

1:24:22.949,1:24:29.949  
focus, I think, with respect to the program.  
There was a willingness to believe what our

1:24:30.059,1:24:34.030  
people were being told by some of the leaders  
in some of those financial institutions that

1:24:34.030,1:24:41.030  
failed, a lack of skepticism which I think  
really hurt us as well. That program was discontinued

1:24:41.559,1:24:44.099  
by my predecessor, Chairman Cox.

1:24:44.099,1:24:51.099  
[Mr. Yarmoth] With regard to the present situation,  
because most people who observe the situation

1:24:53.409,1:25:00.409  
now, agree I think that the situation in terms  
of too big to fail, the largest investment

1:25:01.309,1:25:08.309  
banks have, in fact, gotten larger and that  
the wild west atmosphere in terms of risk

1:25:09.519,1:25:16.489  
taking and so forth may not have been curtailed  
at all. Is this a concern that you share?

1:25:16.489,1:25:22.199  
Anyone else on the panel is welcome to respond  
as well.

1:25:22.199,1:25:28.619  
Looking at the Wall Street profit picture  
and so forth, it looks like there hasn't

1:25:28.619,1:25:31.059  
been a whole lot of change in behavior.

1:25:31.059,1:25:35.300  
[Ms. Schapiro] I do think I can speak perhaps  
most particularly to the over-the-counter

1:25:35.300,1:25:39.229  
derivatives market where we have a very direct  
responsibility, although much progress is

1:25:39.229,1:25:43.380  
being made internationally with respect to  
accounting standards and other prudential

1:25:43.380,1:25:43.960  
measures.

1:25:43.960,1:25:50.960  
Getting the over-the-counter derivatives market  
into a transparent marketplace so that regulators

1:25:51.420,1:25:55.869  
can understand the build up and concentration  
of risk in financial institutions I think

1:25:55.869,1:26:00.679  
is going to be a very, very important piece  
of this. We are working through those rules

1:26:00.679,1:26:05.559  
as is the Commodities Futures Trading Commission.  
About half of them or so have been proposed

1:26:05.559,1:26:10.309  
and I would expect while we are going to miss  
for some of them the July 21 deadline, we

1:26:10.309,1:26:15.409  
will get them over the finish line over the  
course of the rest of this year. Then there

1:26:15.409,1:26:21.239  
will be implementation and phasing periods  
to go through. I think that will make a difference.

1:26:21.239,1:26:26.800  
I think the work the FDIC is doing with the  
Fed and others on living wills and plans for

1:26:26.800,1:26:31.479  
financial institutions to wind down their  
business appropriately will also make a very

1:26:31.479,1:26:33.979  
big difference and then, of course, the capital  
requirements.

1:26:33.979,1:26:40.979  
[Mr. Yarmoth] A final question on that subject.  
We talked about the problem potentially with

1:26:44.710,1:26:51.710  
resources and the dangers that would ensue  
if your budget was cut. Are you confident

1:26:53.110,1:26:57.690  
that the legislative action that was taken,  
Dodd-Frank, is sufficient or that there are

1:26:57.690,1:27:03.099  
things that we yet need to do to make sure  
that we don't have a situation recur as

1:27:03.099,1:27:03.940  
it did two years ago?

1:27:03.940,1:27:09.869  
[Ms. Schapiro] I think it makes large strides  
towards filling the gaps that existed in the

1:27:09.869,1:27:15.519  
regulatory regime. I will say that one of  
my concerns about the budget is that we don't

1:27:15.519,1:27:21.300  
have the capacity to operationalize the rules  
that we are putting into place -- getting

1:27:21.300,1:27:26.690  
swap markets participants registered and the  
swap data analyzed and market surveillance

1:27:26.690,1:27:32.739  
taken care of. Those are things that we will  
have to put off, but I think it is incumbent

1:27:32.739,1:27:37.860  
upon all of us as regulators who see these  
markets close up to continue to tell Congress

1:27:37.860,1:27:42.719  
where we think the issues are, where perhaps  
Dodd-Frank wasn't the right approach and

1:27:42.719,1:27:44.070  
where we think there are still gaps.

1:27:44.070,1:27:45.440  
[Mr. Yarmoth] Thank you very much.

1:27:45.440,1:27:50.130

[Mr. McHenry] I thank the gentleman. With  
that, I yield five minutes to the Chairman

1:27:50.130,1:27:51.550

of the Full Committee, Mr. Issa.

1:27:51.550,1:27:55.400

[Mr. Issa] Thank you, Mr. Chairman.

1:27:55.400,1:28:00.829

Madam Chair, I just went over to the Business  
Roundtable and back, so I had the opportunity

1:28:00.829,1:28:07.829

to see about one-third of corporate America's  
profits in that room, almost all public companies,

1:28:09.110,1:28:16.110

probably all public companies except one,  
all regulated by the SEC. I was there talking

1:28:16.190,1:28:18.389

about impediments to job creation.

1:28:18.389,1:28:24.510

I am going to give you a little relief from  
the question de jour for a moment and ask,

1:28:24.510,1:28:30.949

Dodd-Frank is not perfect and it was not what  
you might call a low cost, low budget way

1:28:30.949,1:28:37.949

to get better performance with less cost.  
You have asked for 28 percent budget increase.

1:28:38.650,1:28:45.550

In fact, if you had only the budget increase  
necessary to do the work you were not doing

1:28:45.550,1:28:50.280

as well as you wanted to without all the new  
losses, what would that budget increase be

1:28:50.280,1:28:54.119

in your estimation? In other words, what would  
it cost to do it right without piling on new

1:28:54.119,1:28:59.320

regulations when there is no question there  
have been problems properly enforcing your

1:28:59.320,1:29:00.409

existing portfolio?

1:29:00.409,1:29:05.889

[Ms. Schapiro] Mr. Chairman, I would have  
to actually do the math but maybe this helps.

1:29:05.889,1:29:12.889

When we did our 2012 request, we viewed 40  
percent of the positions and it was a total

1:29:13.820,1:29:19.929

of 780 positions or 584 full-time equivalents.  
We viewed 40 percent of those as going to

1:29:19.929,1:29:26.929

our ongoing programs -- that is 312 positions  
-- and 60 percent going to Dodd-Frank in limitations,

1:29:28.119,1:29:34.190

so hedge funds, oversight, over the counter  
derivatives, municipal advisors, whistleblower

1:29:34.190,1:29:37.619

programs, clearing agencies and so forth.

1:29:37.619,1:29:42.289

[Mr. Issa] To follow up on that question, the Chairman Decl. Pg 52 of 73 transparency elements that were asked for

1:29:42.289,1:29:49.289  
and agreed on by SEC and other agencies never got into Dodd-Frank, so you don't have a

1:29:49.349,1:29:55.929  
common mandate for reporting for transparency that had been worked out in the conference

1:29:55.929,1:29:59.099  
and then didn't happen.

1:29:59.099,1:30:03.800  
From this committee's standpoint we are interested, and you can answer for the record

1:30:03.800,1:30:08.349  
if you are not completely ready today, how much savings could you get if, in fact, there

1:30:08.349,1:30:14.199  
was transparent interoperability both inward and whenever possible, out to the public for

1:30:14.199,1:30:14.780  
oversight?

1:30:14.780,1:30:18.559  
[Ms. Schapiro] That is a great question and I would like to answer it for the record because

1:30:18.559,1:30:24.300  
I do think it is important, particularly when you have a market like the over-the-counter

1:30:24.300,1:30:29.969  
derivatives market with two regulators in the same space, that we try to be as consistent

1:30:29.969,1:30:34.320  
as we possibly can and leverage each other as effectively as we can. If I can come back

1:30:34.320,1:30:35.400  
to you on that, I would like to.

1:30:35.400,1:30:39.119  
[Mr. Issa] I appreciate that and I want to give you an opportunity to be thoughtful because

1:30:39.119,1:30:43.150  
that is a major initiative of this committee on a bipartisan basis in the last Congress

1:30:43.150,1:30:46.489  
that didn't happen and we would like to renew it but would certainly take your input.

1:30:46.489,1:30:53.489  
In the remaining two minutes, I do want to ask, Mr. Becker's conduct in retrospect

1:30:56.059,1:31:02.889  
was not a good idea. It certainly has not led to confidence in the independence, transparency

1:31:02.889,1:31:09.400  
and non-biased behavior of the SEC when we look through the tail light.

1:31:09.400,1:31:16.329  
How can we know that the changes you are asking to be reviewed are going to clearly eliminate

1:31:16.329,1:31:19.590  
anything like this in the future? Where do we get the confidence in that?

1:31:19.590,1:31:26.590

[Ms. Schapiro] Mr. Chairman, I think the Chairman Decl. Pg 53 of 73  
a fair question. You and I have had many conversations

1:31:27.300,1:31:33.170  
and I try to be very transparent and up front.  
We will obviously be public about what our

1:31:33.170,1:31:38.460  
Inspector General finds and what recommendations  
he makes, what our new Ethics Counsel finds

1:31:38.460,1:31:45.159  
as she reviews our program and recommendations  
she makes. We will be happy to come back and

1:31:45.159,1:31:49.699  
talk to Congress about those findings and  
those recommendations and see if we can develop

1:31:49.699,1:31:55.039  
some metrics that would actually help us figure  
out whether we are getting it right.

1:31:55.039,1:31:59.499  
[Mr. Issa] Your Ethics Counsel served under  
the General Counsel, a career position but

1:31:59.499,1:32:01.380  
under the General Counsel, correct?

1:32:01.380,1:32:02.229  
[Ms. Schapiro] Yes.

1:32:02.229,1:32:06.690  
[Mr. Issa] Would you consider moving that  
to be independent direct report so that there

1:32:06.690,1:32:13.460  
would only be one person, a political appointee  
like yourself, that would be between the public

1:32:13.460,1:32:17.940  
and ethics questions rather than having a  
General Counsel who has a number of jobs?

1:32:17.940,1:32:22.199  
You don't have to answer that today but  
I would like you to consider that. In so many

1:32:22.199,1:32:29.199  
different HR situations in the private sector,  
there is a clear independence of HR which

1:32:29.760,1:32:33.940  
is a lot of the questions. A question of conflict  
was more than a legal questions, particularly

1:32:33.940,1:32:40.789  
when it included somebody who was the boss  
of the person they went to for this 25 minute

1:32:40.789,1:32:44.940  
session and clearance, so give that some thought.  
I won't ask for an answer today.

1:32:44.940,1:32:46.900  
[Ms. Schapiro] I will do that.

1:32:46.900,1:32:52.679  
[Mr. Issa] Finally, as the time runs out,  
we on the committee want to work to try to

1:32:52.679,1:32:57.010  
be helpful. We realize we only have a portion  
of the portfolio that you see; you see much

1:32:57.010,1:33:04.010  
more of the regulatory and financial oversight  
of another committee, but the question I have

1:33:04.260,1:33:11.260

for you is, in our conduct of this investigation, the Chairman Decl. Pg 54 of 73  
as we look at Mr. Becker's total portfolio

1:33:11.369,1:33:17.760

of money, other things he may have done and  
how this might have affected or not affected

1:33:17.760,1:33:21.340

the Madoff Trust, will you promise your cooperation  
to this committee today?

1:33:21.340,1:33:26.349

[Ms. Schapiro] I will promise my cooperation  
to the fullest extent I can. I don't know

1:33:26.349,1:33:28.489

that I can compel him in any way to do anything.

1:33:28.489,1:33:33.039

[Mr. Issa] He has already come in voluntarily.  
We have the ability to compel him but it is

1:33:33.039,1:33:39.159

really making sure that we can have a quick  
and transparent. Your IG would normally be

1:33:39.159,1:33:45.059

willing to share any information that was  
not directly related to a criminal referral

1:33:45.059,1:33:49.679

and so on. Anything you can do to pledge to  
help us will allow us to move from where we

1:33:49.679,1:33:53.210

are as quickly as possible onto something  
else. That is why I ask today.

1:33:53.210,1:33:54.190

[Ms. Schapiro] Yes, of course I will help.

1:33:54.190,1:33:56.929

[Mr. Issa] Thank you. I thank you all for  
your indulgence and I yield back.

1:33:56.929,1:33:58.159

[Mr. McHenry] Thank you.

1:33:58.159,1:34:00.190

Mr. Connolly of Virginia for five minutes.

1:34:00.190,1:34:03.249

[Mr. Connolly] Thank you, Mr. Chairman.

1:34:03.249,1:34:07.579

Chairman Schapiro, aren't you the Chairman  
who appointed the Inspector General who, in

1:34:07.579,1:34:09.659

fact, is charged with investigating Mr. Becker?

1:34:09.659,1:34:13.019

[Ms. Schapiro] No, sir. He was appointed by  
my predecessor.

1:34:13.019,1:34:15.999

[Mr. Connolly] By your predecessor. That investigation  
continues?

1:34:15.999,1:34:20.249

[Ms. Schapiro] Yes. I requested the investigation.

1:34:20.249,1:34:22.880

[Mr. Connolly] You requested the investigation?

1:34:22.880,1:34:24.159

[Ms. Schapiro] Yes.

1:34:24.159,1:34:31.159

[Mr. Connolly] We just heard a line of questioning  
asking you to look at a budget without additional

1:34:34.670,1:34:41.670  
regulation that was burdensome and so forth.  
The Dodd-Frank legislation added some regulation

1:34:45.559,1:34:49.389  
in areas that heretofore had not been regulated  
at all, is that correct, Chairman Schapiro?

1:34:49.389,1:34:50.940  
[Ms. Schapiro] Yes, that is absolutely correct.

1:34:50.940,1:34:55.909  
[Mr. Connolly] For examples, take derivates.  
How big are derivates? What is the value of

1:34:55.909,1:34:56.829  
the derivatives market?

1:34:56.829,1:34:59.119  
[Ms. Schapiro] The last number I saw was \$600  
trillion, I believe.

1:34:59.119,1:35:01.400  
[Mr. Connolly] I am sorry, did you say trillion?

1:35:01.400,1:35:02.110  
[Ms. Schapiro] Yes, sir.

1:35:02.110,1:35:06.449  
[Mr. Connolly] It is entirely unregulated  
until Dodd-Frank passed, is that correct?

1:35:06.449,1:35:08.449  
[Ms. Schapiro] Yes, it is largely unregulated.

1:35:08.449,1:35:13.579  
[Mr. Connolly] Whatever could go wrong with  
an entirely unregulated \$600 trillion market?

1:35:13.579,1:35:19.229  
[Ms. Schapiro] We saw some things that went  
wrong and presumably that is what motivated

1:35:19.229,1:35:20.079  
the Dodd-Frank Act.

1:35:20.079,1:35:24.320  
[Mr. Connolly] So maybe that is one of those  
burdensome additional pieces of regulation

1:35:24.320,1:35:31.320  
we are just going to have to put up with.  
That burdensome additional regulation requires

1:35:32.959,1:35:39.959  
SEC to staff up and to acquire the requisite  
expertise to enforce the regulation you are

1:35:40.119,1:35:41.630  
now charged with, is that correct?

1:35:41.630,1:35:44.749  
[Ms. Schapiro] Yes, we believe so. We are  
able to do the rule writing that has been

1:35:44.749,1:35:48.659  
ongoing this year but to operationalize those  
rules, we need additional staff.

1:35:48.659,1:35:54.219  
[Mr. Connolly] We heard Mr. Katz in his testimony  
say that simply having more SEC staffers do

1:35:54.219,1:36:00.510  
the same thing would not protect investors  
or promote capital formation. How many areas

1:36:00.510,1:36:06.599  
of additional or new regulation are requiring  
you to ramp up in terms of expert staffing?

1:36:06.599,1:36:13.070

[Ms. Schapiro] We obviously have derivatives,  
hedge fund regulation, we are creating a new

1:36:13.070,1:36:19.239

whistleblower office although that is work  
that we need more help with but it is not

1:36:19.239,1:36:25.400

unknown to us. We have to increase our oversight  
of credit rating agencies under the Act and

1:36:25.400,1:36:29.610

we have to register a whole new category of  
registrant in the municipal securities markets

1:36:29.610,1:36:36.610

called municipal advisors, so there are half  
a dozen or so new areas for us to undertake

1:36:36.889,1:36:37.619

regulation.

1:36:37.619,1:36:44.019

[Mr. Connolly] Just listening to you tick  
off that list, none of those sound like frivolous

1:36:44.019,1:36:51.019

burdensome additional pieces of regulation.  
They sound like thoughtful additions to the

1:36:51.229,1:36:55.869

regulatory framework in light of the biggest  
meltdown on Wall Street in 80 years. Would

1:36:55.869,1:36:57.530

you share that view?

1:36:57.530,1:37:01.860

[Ms. Schapiro] I do think all of these areas  
are ones that needed to be addressed. As we

1:37:01.860,1:37:07.019

write the rules, we are working very hard  
in collaboration with other regulators, but

1:37:07.019,1:37:11.459

also with the public, with investors and the  
industry to make sure that we write as sensible

1:37:11.459,1:37:12.670

rules as we possibly can.

1:37:12.670,1:37:19.159

[Mr. Connolly] Mr. Katz, would you share that  
view or is this just another example of having

1:37:19.159,1:37:24.610

simply "more SEC staffers doing the same  
thing"?

1:37:24.610,1:37:29.999

[Mr. Katz] There is a quantitative nuance  
difference in what I said and the way I think

1:37:29.999,1:37:36.999

you characterized it. The agency has an enormously  
large number of new areas of regulatory authority.

1:37:41.209,1:37:47.010

The question is, when you go about regulating  
hedge funds, or regulating municipal securities

1:37:47.010,1:37:53.159

markets, are you going to regulate hedge funds  
exactly the way you regulate investment advisors,

1:37:53.159,1:37:57.989

which is arguably what they are, or investment  
companies, which is sort of a close cousin?

1:37:57.989,1:38:03.320

My point is that if you look at the way the Commission has regulated advisors, and regulated

1:38:03.320,1:38:09.499

mutual funds, it hasn't been terribly effective. If you take the same approach for hedge funds,

1:38:09.499,1:38:16.179

yes, that would be doing the same thing in those approaches, even if it is a new substantive

1:38:16.179,1:38:18.949

responsibility with a new category of registrant.

1:38:18.949,1:38:24.949

[Mr. Connolly] Would you say, Mr. Katz, that some of the problem preceding the Wall Street

1:38:24.949,1:38:30.479

meltdown in September 2008, for example, had to do frankly with the quality of the appointees,

1:38:30.479,1:38:34.050

namely a whole bunch of people who didn't believe in regulation in the first place and

1:38:34.050,1:38:34.849

therefore, didn't do it?

1:38:34.849,1:38:41.849

[Mr. Katz] I have to tell you that there is an old saying at the SEC that the Commissioners

1:38:48.749,1:38:55.749

decide the policy, but ultimately, it is the staff that decides what it means and how it

1:38:57.219,1:39:02.010

gets done. One of the interesting things about the SEC, the relationship between Commissioners

1:39:02.010,1:39:09.010

and the staff is that it is a close relationship. Because the Commission is a bipartisan body,

1:39:09.889,1:39:15.650

you are always going to get five people with diverging points of view, some of whom will

1:39:15.650,1:39:19.400

support the staff, some of whom will disagree with the staff.

1:39:19.400,1:39:25.550

I can't think of an occasion where you had five Commissioners on one side of the table

1:39:25.550,1:39:31.809

and the staff on the other side at loggerheads. That doesn't happen. You invariably get

1:39:31.809,1:39:35.869

some supportive of Commissioners, some Commissioners who are critical and you also get that divergence

1:39:35.869,1:39:39.329

of view among the staff.

1:39:39.329,1:39:42.969

Financial regulation is never a question of identifying a single right answer.

1:39:42.969,1:39:46.670

[Mr. Connolly] Thank you, Mr. Katz. Unfortunately, my time is up but I would love to pursue this

1:39:46.670,1:39:53.670

further, but I certainly believe that the narrative that somehow SEC is treading into

1:39:54.219,1:40:01.219

waters it has no business treading into is fallacious. If anything, we needed more people

1:40:01.729,1:40:06.340

guarding the hen house. If we are going to talk about the fox guarding the hen house,

1:40:06.340,1:40:10.519

that may have been true in the 2008 period of time but is not true today.

1:40:10.519,1:40:11.320

I thank the Chair.

1:40:11.320,1:40:15.650

[Mr. Katz] Excuse me, Mr. Chairman, if you might indulge me? There is one very quick

1:40:15.650,1:40:17.840

point I wanted to make that Mr. Yarmoth brought up.

1:40:17.840,1:40:18.150

[Mr. McHenry] Please.

1:40:18.150,1:40:23.639

[Mr. Katz] That was the question of the consolidated supervised entities regulatory process at

1:40:23.639,1:40:28.789

the SEC. There is a lot of confusion about that. There was a voluntary process. The reason

1:40:28.789,1:40:34.139

it was a voluntary process is not because of a deregulatory attitude at the SEC; it

1:40:34.139,1:40:40.809

is because the Commission sought from Congress the authority to make it a mandatory process

1:40:40.809,1:40:47.809

as part of the Gramwiche Bill, which eliminated glass eagle.

1:40:48.809,1:40:55.229

Congress explicitly prohibited the Commission from making it a mandatory process. The Commission

1:40:55.229,1:40:57.989

had a weak hand, it played the weak hand as best it could.

1:40:57.989,1:40:59.570

[Mr. Platts] Thank the gentleman.

1:40:59.570,1:41:01.679

I will yield five minutes to myself.

1:41:01.679,1:41:07.199

I chair the Subcommittee on Government Organization, Efficiency and Financial Management, so I

1:41:07.199,1:41:14.199

am going to focus on a related but slightly different area that relates to our jurisdiction.

1:41:15.320,1:41:20.300

I had the privilege of chairing the same Subcommittee from 2003 to 2007.

1:41:20.300,1:41:26.749

We had a subcommittee hearing July 2003 about the SEC, about financial management at the

1:41:26.749,1:41:33.059

SEC, about internal controls and we heard testimony at that point they had just put

1:41:33.059,1:41:39.190 the Chairman Decl. Pg 59 of 73

in a new financial management system in 2002.

In the testimony of the Executive Director,

1:41:39.190,1:41:45.699

James McConnor at the time in July 2003, he said we have this new system and we are going

1:41:45.699,1:41:52.699

to be certified basically in January 2004 for audited financial statements. Here we

1:41:53.940,1:42:00.940

are seven years later, plus, and we are now talking about the same thing, a new system

1:42:01.619,1:42:08.619

using DOT Enterprise system to put in place a new system.

1:42:10.769,1:42:17.079

Chairman Schapiro, I appreciate the changes you have made, the COO, the new Chief Operating

1:42:17.079,1:42:24.079

Officer and other leadership changes and systemic changes within the SEC. Why should the American

1:42:24.979,1:42:30.679

people believe when we were told seven years ago we got it right and we were going to be

1:42:30.679,1:42:32.289

able to go forward; how is it different today?

1:42:32.289,1:42:37.139

[Ms. Schapiro] Thank you. My understanding is that was the Momentum system, I believe,

1:42:37.139,1:42:42.869

and it was deployed nine or ten years ago and in the beginning, it did meet the agency's

1:42:42.869,1:42:49.010

needs, but then over time, the agency deferred upgrading over many years and as a result,

1:42:49.010,1:42:54.289

it began to lack the functionality that was necessary to do the job. Gaps were created,

1:42:54.289,1:43:01.289

work arounds were developed and as a result, the SEC ended up with two material weaknesses

1:43:01.309,1:43:06.360

in its controls over financial reporting in our audit which is a disgraceful position

1:43:06.360,1:43:09.800

for the Securities and Exchange Commission to be in.

1:43:09.800,1:43:15.429

With our new Chief Operating Officer, our new Chief Financial Officer and our new Information

1:43:15.429,1:43:20.559

Officer, we made the decision that rather than incur the risks of developing a new system

1:43:20.559,1:43:26.619

at the SEC, perhaps not really a core competency for us, that we would be better served by

1:43:26.619,1:43:28.659

outsourcing financial management.

1:43:28.659,1:43:33.900

We went through a process and identified the Department of Transportation, which is an

1:43:33.900,1:43:39.699  
authorized Federal Share Service provider  
used by the GAO for their financial management

1:43:39.699,1:43:44.900  
system, and made the decision that the best  
way for us to remediate our material weaknesses,

1:43:44.900,1:43:49.550  
generate the kind of reporting that we need,  
minimize all these manual workarounds and

1:43:49.550,1:43:54.479  
all of this would be to outsource to them.  
I think it is the right decision for the taxpayer,

1:43:54.479,1:43:56.550  
I think it is the right decision for the SEC.

1:43:56.550,1:44:01.650  
[Mr. Platts] The follow-up related to that  
is, in the audit that was done at the end

1:44:01.650,1:44:08.650  
of this past year, a clean opinion, but failure  
to sign off on the internal controls, two

1:44:09.449,1:44:11.119  
related questions.

1:44:11.119,1:44:17.690  
First, how would you describe the internal  
effort to get the clean opinion other than

1:44:17.690,1:44:23.489  
the internal controls and I ask in the sense  
of in July 2003, SEC said it was a heroic

1:44:23.489,1:44:27.780  
end of the year effort, it wasn't because  
we had a system in place, here is the data,

1:44:27.780,1:44:32.780  
we are ready to go. Was there again a heroic  
end of the year effort to be able to have

1:44:32.780,1:44:33.150  
that audit?

1:44:33.150,1:44:37.749  
[Ms. Schapiro] I think there were some heroics  
involved. I can't compare to 2003 but I

1:44:37.749,1:44:42.420  
think we did put together a senior team of  
people to really shepherd the process through.

1:44:42.420,1:44:47.059  
They were diligent and they stuck with it,  
but they are also very much onboard for this

1:44:47.059,1:44:48.940  
decision to outsource.

1:44:48.940,1:44:55.530  
[Mr. Platts] Interim controls, not until last  
year in Dodd-Frank did it require the auditor

1:44:55.530,1:45:00.170  
to sign off on the internal controls. For  
almost 20 years under the Federal Managers

1:45:00.170,1:45:07.170  
Financial Integrity Act adopted in 1982, actually  
over 20 years, that we have to have strong

1:45:10.510,1:45:15.719  
internal controls. Although that wasn't  
required to be signed off, I assume you are

1:45:15.719,1:45:20.539 the Chaitman Decl. Pg 61 of 73

really conscious of the fact that it wasn't  
a new requirement that you have good internal1:45:20.539,1:45:24.570  
controls, it was just a new requirement that  
it be signed off by the auditor and whoever1:45:24.570,1:45:29.709  
has been overseeing those internal control  
systems, clearly were not fulfilling their1:45:29.709,1:45:30.380  
responsibilities?1:45:30.380,1:45:36.670  
[Ms. Schapiro] Absolutely, and under our Chief  
Operating Officer, we will deal both with1:45:36.670,1:45:40.170  
the audit issues with respect to internal  
controls, but also the attendant business1:45:40.170,1:45:44.940  
processes, so it is not just a technology  
answer for us. It is going to have to be business1:45:44.940,1:45:47.249  
process, free engineering process as well.1:45:47.249,1:45:51.349  
[Mr. Platts] I am going to try to squeeze  
in two more questions in 20 seconds.1:45:51.349,1:45:57.900  
In your testimony, you talk about the follow-on  
person that you have for the audit recommendations1:45:57.900,1:46:04.900  
of your IG and GAO. In your testimony, you  
state that you appointed an audit follow-up1:46:05.940,1:46:10.479  
official and empowered her to ensure that  
agency managers are held accountable for timely1:46:10.479,1:46:11.809  
and appropriate follow up.1:46:11.809,1:46:14.610  
How are they being held accountable? One thing  
that frustrates me is when we find something1:46:14.610,1:46:19.630  
that went wrong and I have asked for many  
years now, was anyone disciplined, was anyone1:46:19.630,1:46:24.840  
fired for not doing what they were supposed  
to do? In what way are they being held accountable?1:46:24.840,1:46:28.929  
[Ms. Schapiro] We are very closely tracking  
audit recommendations, both from GAO and from1:46:28.929,1:46:34.010  
our Inspector General. I can tell you that  
in my two years as Chairman, we have successfully1:46:34.010,1:46:40.349  
closed 350 Inspector General recommendations  
compared to 190 in the prior two years. We1:46:40.349,1:46:47.349  
are aggressive about doing it and I will tell  
you that in the Inspector General's semiannual1:46:47.349,1:46:54.199  
report, he also talks about our progress with  
respect to closing recommendations and whether

1:46:54.199,1:46:59.099 the Chairman Decl. Pg 62 of 73  
there has been any management disagreement  
with his recommendations. He is quite on top

1:46:59.099,1:46:59.809  
of it and quite transparent.

1:46:59.809,1:47:04.309  
[Mr. Platts] I think that is critical going  
forward. My subcommittee is especially going

1:47:04.309,1:47:09.619  
to look at staying on top of those recommendations  
and special internal controls. It goes to

1:47:09.619,1:47:14.400  
the broader issue discussed here about ethics  
and if you don't have internal controls,

1:47:14.400,1:47:19.440  
that is the foundation for not just good financial  
management, but for a good ethics environment.

1:47:19.440,1:47:20.440  
[Ms. Schapiro] I agree completely.

1:47:20.440,1:47:25.780  
[Mr. Platts] We, as a subcommittee, and partner  
with Chairman McHenry here today, that is

1:47:25.780,1:47:27.119  
what we are going to be looking at.

1:47:27.119,1:47:34.119  
I will yield back and yield now to Ms. Speier  
from California for five minutes.

1:47:38.659,1:47:40.469  
[Ms. Speier] Thank you, Mr. Chairman.

1:47:40.469,1:47:44.119  
I thank you all for your participation in  
this hearing. I was particularly impressed

1:47:44.119,1:47:47.630  
by the testimony of Mr. Katz and Mr. Crimmins.

1:47:47.630,1:47:54.630  
I am somewhat surprised because I am looking  
at the title of the hearing and the sign above

1:47:55.469,1:48:00.599  
the Chairman's head that reads, "Can American  
Taxpayers Trust Today's SEC to Manage Itself

1:48:00.599,1:48:07.599  
and Do Its Job." I thought it might be interesting  
to substitute Congress and ask the same question

1:48:08.579,1:48:12.719  
and see if we would fare as well.

1:48:12.719,1:48:16.429  
Chairman Schapiro, having served over two  
years on the Financial Services Committee,

1:48:16.429,1:48:22.719  
I have watched you and I think you are truly  
committed to doing the right thing. Before

1:48:22.719,1:48:29.719  
you came back as Chair, under Chairman Cox,  
the number of actual enforcement actions at

1:48:32.179,1:48:37.709  
the SEC was reduced by 80 percent and the  
number of disgorgement actions were reduced

1:48:37.709,1:48:44.709  
by 60 percent -- a stunning failure at a time  
when all the mischief was going on with Wall

1:48:46.119,1:48:46.369  
Street.

1:48:46.119,1:48:53.119  
We look back at the savings and loan crisis  
and we recognize that referrals from various

1:48:54.769,1:49:01.679  
regulators, there were 10,000 of them, and  
of those 10,000, there were 1,000 that turned

1:49:01.679,1:49:07.999  
into convictions and 500 people went to jail.  
These were CEO level folks that went to jail.

1:49:07.999,1:49:12.479  
The American people are looking at us, looking  
at Congress, looking at you and saying, who

1:49:12.479,1:49:19.479  
is going to jail? Who is being charged? The  
truth is there hasn't been a lot.

1:49:19.659,1:49:26.659  
My first question is, have you made any referrals  
to the Justice Department, to the U.S. Attorney,

1:49:26.900,1:49:29.090  
as a result of the Wall Street meltdown?

1:49:29.090,1:49:33.679  
Ms. Schapiro. I am confident that we have.  
I guess I would like to supplement the record,

1:49:33.679,1:49:38.380  
if I might, on that. I just don't know the  
numbers or the details about it because, as

1:49:38.380,1:49:43.139  
you know, we don't have criminal prosecution  
authority, although we have continued to bring

1:49:43.139,1:49:49.030  
a relatively high number of cases and some  
very large impact cases coming out of the

1:49:49.030,1:49:50.689  
financial crisis in the past year.

1:49:50.689,1:49:57.349  
[Ms. Speier] So you will get back to the committee  
and actually tell us how many referrals you

1:49:57.349,1:49:57.619  
have made?

1:49:57.619,1:49:58.489  
[Ms. Schapiro] I would be happy to.

1:49:58.489,1:50:05.489  
[Ms. Speier] The CEO of Galian is being tried  
now. Mr. Kupta who is a director of a significant

1:50:08.519,1:50:14.380  
Wall Street firm, evidently is being looked  
at as having shared insider information, although

1:50:14.380,1:50:18.639  
he didn't appear to have acted on it. Have  
any actions by the SEC been taken against

1:50:18.639,1:50:19.630  
those two individuals?

1:50:19.630,1:50:26.630  
[Ms. Schapiro] We filed a proceeding against  
Mr. Kupta last week and we have filed multiple

1:50:26.829,1:50:31.269  
proceedings coming out of the Galian investigation

1:50:31.269,1:50:31.789  
so.

1:50:31.789,1:50:38.789  
[Ms. Speier] In 2004 and 2005, the GAO said  
to the SEC that it should take a look at and

1:50:40.530,1:50:47.260  
close its revolving door. The SEC then reported  
back to the GAO that it had done that, although

1:50:47.260,1:50:53.349  
the GAO now says that never happened. The  
reverse situation of Mr. Becker is the fact

1:50:53.349,1:51:00.349  
that you have staff that work within the SEC  
and then they are lured away by lucrative

1:51:01.840,1:51:08.170  
salaries outside and oftentimes, the people  
that are lured away are lured away by the

1:51:08.170,1:51:12.150  
companies that they were actually investigating.

1:51:12.150,1:51:17.380  
We need to do something about the lack of  
a revolving door and I want to know, first

1:51:17.380,1:51:23.800  
of all, have you made any policy changes in  
an attempt to deter these revolving door practices?

1:51:23.800,1:51:30.599  
[Ms. Schapiro] We have instituted requirements  
that senior employees seek ethics counseling

1:51:30.599,1:51:37.599  
before they leave the agency. We require all  
employees to have a post employment briefing

1:51:38.070,1:51:42.380  
so they don't violate ethics rules when  
they are leaving. Of course we are subject

1:51:42.380,1:51:47.309  
to the government-wide restrictions and we  
have some unique to the SEC restrictions,

1:51:47.309,1:51:52.749  
but our Inspector General in looking at a  
specific revolving door incident has given

1:51:52.749,1:51:58.349  
us last week some additional recommendations  
for tightening up our rules. We are going

1:51:58.349,1:52:01.119  
to look at those very seriously and I hope  
to go forward with them.

1:52:01.119,1:52:08.119  
[Ms. Speier] What about a cooling off period?  
Why not require that persons within the Commission

1:52:08.579,1:52:15.579  
that have the authority to make determinations  
and were investigating are not allowed to

1:52:17.219,1:52:22.300  
be hired by those who they have investigated  
for a period of two years?

1:52:22.300,1:52:29.110  
[Ms. Schapiro] I think there is a lot of appeal  
to that. The only hesitation I have is that

1:52:29.110,1:52:33.959

we are so dependent on getting people to come  
to us, even if it is just for a few years

1:52:33.959,1:52:38.849  
just to bring us current industry expertise,  
we have to get the balance right.

1:52:38.849,1:52:42.170  
[Ms. Speier] I don't disagree, because that  
is precisely the problem.

1:52:42.170,1:52:45.539  
[Mr. McHenry] The gentlelady's time has  
expired.

1:52:45.539,1:52:50.139  
I recognize myself for five minutes.

1:52:50.139,1:52:54.280  
Chairman Schapiro, I want to get this out  
of the way. I know there have been a number

1:52:54.280,1:53:01.280  
of questions about the David Becker conflict  
of interest question. I just have a couple

1:53:01.449,1:53:07.550  
of questions, yes or no. I want to proceed  
with it because I have some other issues I

1:53:07.550,1:53:10.389  
do want to touch on beyond this.

1:53:10.389,1:53:16.849  
After David Becker told you that he received  
proceeds of a closed Madoff account, did you

1:53:16.849,1:53:20.869  
suggest that he recuse himself from the Madoff  
case, yes or no?

1:53:20.869,1:53:27.219  
[Ms. Schapiro] I am sorry, the premise isn't  
exactly right. My recollection is that he

1:53:27.219,1:53:34.219  
told me that his mother had a Madoff account  
before she died and that it had been closed.

1:53:35.880,1:53:42.030  
I don't honestly recall whether he told  
me he had received proceeds or not. He may

1:53:42.030,1:53:46.229  
well have, I just can't recall. As you know,  
I haven't been able to look at anything.

1:53:46.229,1:53:50.729  
[Mr. McHenry] But he brought this up that  
he received proceeds from a Madoff account?

1:53:50.729,1:53:54.239  
[Ms. Schapiro] He brought up that his mother  
had had a Madoff account.

1:53:54.239,1:53:58.380  
[Mr. McHenry] In light of that, did you suggest  
he recuse himself?

1:53:58.380,1:54:00.409  
[Ms. Schapiro] No, I didn't.

1:54:00.409,1:54:06.229  
[Mr. McHenry] Did you suggest that he settle  
with the Trustee as other Madoff investors

1:54:06.229,1:54:07.199  
were doing at the time?

1:54:07.199,1:54:08.820  
[Ms. Schapiro] No.

1:54:08.820,1:54:15.059

[Mr. McHenry] Did you suggest that Mr. Becker disclose his interest to other SEC staff or

1:54:15.059,1:54:17.400

Commissioners who relied on his advice?

1:54:17.400,1:54:22.630

[Ms. Schapiro] I did not. I expected him to go to the Ethics Office and get ethics counsel

1:54:22.630,1:54:23.900

and follow their advice.

1:54:23.900,1:54:30.900

[Mr. McHenry] You are aware that the Ethics Counsel of the SEC reported to the General

1:54:31.639,1:54:31.889

Counsel?

1:54:31.639,1:54:34.559

[Ms. Schapiro] Yes, although the Ethics Officer is a career employee.

1:54:34.559,1:54:37.510

[Mr. McHenry] But his direct report.

1:54:37.510,1:54:38.989

[Ms. Schapiro] Yes.

1:54:38.989,1:54:43.550

[Mr. McHenry] Did you suggest that Becker do any research to determine the amount or

1:54:43.550,1:54:46.280

the character of interest that he had?

1:54:46.280,1:54:47.110

[Ms. Schapiro] No.

1:54:47.110,1:54:53.570

[Mr. McHenry] Later when Becker was providing advice about the net equity evaluation method,

1:54:53.570,1:54:59.530

did you direct Mr. Becker to take any actions with respect to this potential conflict of

1:54:59.530,1:54:59.780

interest?

1:54:59.530,1:55:03.670

[Ms. Schapiro] No, because it didn't occur to me that this long ago closed account would

1:55:03.670,1:55:06.110

be in any way impacted, it just didn't occur to me.

1:55:06.110,1:55:10.179

[Mr. McHenry] So he didn't disclose to you that he was, in fact, the trustee who closed

1:55:10.179,1:55:11.429

the account?

1:55:11.429,1:55:12.849

[Ms. Schapiro] I don't recall.

1:55:12.849,1:55:19.070

[Mr. McHenry] I understand. I am just trying to get to the heart of this. This raises major

1:55:19.070,1:55:26.070

questions and I think you can understand the public's interest and the investors' interest.

1:55:26.920,1:55:33.920

To that same degree, when Mr. Becker was filing

1:55:34.510,1:55:40.689  
in terms of the net equity position valuation  
method, you didn't direct Mr. Becker to

1:55:40.689,1:55:41.159  
recuse himself?

1:55:41.159,1:55:41.900  
[Ms. Schapiro] No.

1:55:41.900,1:55:46.969  
[Mr. McHenry] Okay. I just wanted to get those  
out of the way. Obviously we care deeply about

1:55:46.969,1:55:52.679  
transparency and disclosure both here in Congress  
and with regulators.

1:55:52.679,1:55:59.679  
Chairman Schapiro, Mr. Risinger, thank you  
for your public service, but we need to get

1:56:03.559,1:56:08.340  
to the heart of this issue. I think that is  
why we are asking these questions today and

1:56:08.340,1:56:08.880  
why I am.

1:56:08.880,1:56:12.329  
[Ms. Schapiro] I agree, Mr. Chairman. It is  
why I have asked the Inspector General to

1:56:12.329,1:56:14.380  
do a review, so we can get all the information.

1:56:14.380,1:56:20.840  
[Mr. McHenry] The point is you said you wish  
you had known then what you know now and had

1:56:20.840,1:56:27.239  
you asked any of these questions, you would  
have known it then. That is at the heart of

1:56:27.239,1:56:34.239  
this issue. That is what is disappointing  
and of great concern in terms of public policy.

1:56:37.699,1:56:44.699  
Ms. Chaitman, in dealing with this Madoff  
valuation question, I understand the insurance

1:56:45.469,1:56:52.469  
piece, I do, would it have changed your dealings  
with SEC's legal counsel had you known that

1:56:53.719,1:56:56.849  
Mr. Becker was the trustee of a Madoff account?

1:56:56.849,1:57:03.849  
[Ms. Chaitman] If I had known that, I would  
have, myself, demanded that he recuse himself

1:57:04.610,1:57:11.610  
and that the SEC take steps to clarify its  
position because as I say, both Congressman

1:57:12.459,1:57:17.809  
Garrett and I believe that the SEC has taken  
an illegal position in supporting SIPC. If

1:57:17.809,1:57:22.360  
I had known that Mr. Becker had a personal  
interest, I certainly would have asked Ms.

1:57:22.360,1:57:22.780  
Schapiro to do something about it.

1:57:22.780,1:57:24.949

1:57:24.949,1:57:30.329

Mr. Katz, this raises a larger management issue. We are talking about capital formation,

1:57:30.329,1:57:35.889

we are trying to be the world's markets, which we have been. When you have a dysfunctional

1:57:35.889,1:57:42.889

agency like this with these management problems that you described, you said the SEC has never

1:57:46.400,1:57:51.439

engaged in serious self examination of its performance or used appropriate measures of

1:57:51.439,1:57:53.389

performance. Is that still the case?

1:57:53.389,1:58:00.389

[Mr. Katz] Not having seen this Boston consulting group report that is apparently due out, I

1:58:00.900,1:58:05.519

think yes, that is the case. It has been a long time since the agency took a hard look

1:58:05.519,1:58:06.590

at itself in the mirror.

1:58:06.590,1:58:11.130

[Mr. McHenry] My time has expired. With that, I recognize Ms. Maloney for five minutes.

1:58:11.130,1:58:16.869

Votes have been called on the Floor, we have 11 minutes remaining in the votes, so I would

1:58:16.869,1:58:21.889

defer to my colleagues on that side of the aisle if they want to work something out in

1:58:21.889,1:58:23.469

terms of time.

1:58:23.469,1:58:30.469

The gentlelady is recognized now for five minutes.

1:58:34.789,1:58:37.510

\*Mrs. Maloney. First of all, I would like to welcome all the panelists and thank the

1:58:37.510,1:58:43.599

Chairman for this important hearing. Certainly honesty and transparency is very important

1:58:43.599,1:58:44.309

in government.

1:58:44.309,1:58:51.309

I would like to get further clarification from Chairman Schapiro. As I understand, the

1:58:51.860,1:58:58.860

controversy around Mr. Becker's alleged conflict of interest is about an SEC decision

1:59:00.019,1:59:07.019

that appears to be against his financial interest. As I understand it, prior to Mr. Becker's

1:59:09.769,1:59:14.400

return to the SEC, he was working at a private law firm, correct?

1:59:14.400,1:59:16.989

[Ms. Schapiro] Yes, he was.

\*Mrs. Maloney. When he arrived at the SEC, you testified he took steps to notify both

1:59:24.739,1:59:31.739  
you and the SEC's Ethics Counsel of his inheritance from his mother which had been

1:59:32.570,1:59:38.650  
liquidated long before Madoff's ponzi scheme had been discovered, correct?

1:59:38.650,1:59:41.090  
[Ms. Schapiro] That is my understanding.

1:59:41.090,1:59:47.499  
\*Mrs. Maloney. The ethics official said it was okay for him to work on Madoff-related

1:59:47.499,1:59:52.360  
issues. That is what is in the memo and information that I read, that the Ethics Committee is

1:59:52.360,1:59:57.579  
there to be consulted, he consulted them and they said there was no conflict, that is fine,

1:59:57.579,2:00:00.689  
go to work. Is that your recollection?

2:00:00.689,2:00:02.030  
[Ms. Schapiro] Yes, I believe.

2:00:02.030,2:00:06.729  
\*Mrs. Maloney. Your memory is the same as the Ethics Committee. Chairman Schapiro, it

2:00:06.729,2:00:13.729  
appears that the basic question the SEC faced was whether to support an asset valuation

2:00:15.420,2:00:22.420  
method used by the Madoff Trustee called the cash-in, cash-out method, or a different evaluation

2:00:24.420,2:00:30.539  
method used by several law firms called the last statement method. Is that correct?

2:00:30.539,2:00:31.519  
[Ms. Schapiro] Yes.

2:00:31.519,2:00:38.519  
\*Mrs. Maloney. Under the first method, Mr. Becker's inheritance would be subject to

2:00:39.019,2:00:46.019  
clawback litigation and under the second method, his inheritance would not have been subject

2:00:46.920,2:00:53.920  
to clawback. The SEC choose to support the first, the decision was against the financial

2:00:55.979,2:01:02.979  
interest of Mr. Becker. This meant that the Trustee could sue Mr. Becker and his brothers

2:01:03.280,2:01:08.130  
to recover some of his mother's inheritance which is exactly what happened, correct?

2:01:08.130,2:01:14.159  
[Ms. Schapiro] That is right. The SEC did take the position that was cash-in, cash-out

2:01:14.159,2:01:21.159  
in constant dollars to reflect that some very elderly people who had long held Madoff accounts

2:01:21.539,2:01:27.360

would be able to get some more money  
the Chairman Decl. Pg 70 of 73  
SIPC under that formulation, but it was not

2:01:27.360,2:01:34.360

the final statement approach that you mentioned  
that would have potentially prevented the

2:01:35.829,2:01:36.209  
clawback.

2:01:36.209,2:01:43.209

\*Mrs. Maloney. But the decision was to allow  
the clawback, so I assume he participated

2:01:43.559,2:01:46.599

in a decision allowing the clawback that was  
against his financial interest?

2:01:46.599,2:01:51.969

[Ms. Schapiro] The decision to clawback is  
one of the Trustee, not of the SEC.

2:01:51.969,2:01:55.780

\*Mrs. Maloney. The SEC did not make that decision,  
the Trustee made that decision?

2:01:55.780,2:01:56.969

[Ms. Schapiro] The Trustee makes that decision.

2:01:56.969,2:02:02.959

\*Mrs. Maloney. The Trustee makes that decision,  
but it was a decision that affected Mr. Becker.

2:02:02.959,2:02:03.789

[Ms. Schapiro] Yes.

2:02:03.789,2:02:10.789

\*Mrs. Maloney. I would like either you or  
Mr. Crimmins to answer. Basically, Mr. Becker

2:02:12.369,2:02:19.369

or the SEC sided with the Madoff Trustee.  
The SEC actually took action that was potentially

2:02:20.219,2:02:26.429

detrimental to Mr. Becker's financial interest  
and it exposed him to a potential litigation

2:02:26.429,2:02:33.429

worth roughly \$1.5 million because that was  
the proceeds, correct, in addition to the

2:02:33.499,2:02:40.479

\$500,000. Everybody seems to be criticizing  
Mr. Becker, but Mr. Becker and the SEC's

2:02:40.479,2:02:45.369

decision appears to have been completely against  
his financial interest.

2:02:45.369,2:02:50.510

I understand you have an IG report coming  
out and that eventually will clarify things

2:02:50.510,2:02:57.510

more, but in first reading the information,  
it appears that the decision made was against

2:02:58.459,2:03:04.559

him and against his financial interest and  
what he or the SEC thought was the right way

2:03:04.559,2:03:04.809

to go.

2:03:04.780,2:03:11.780

If the SEC had supported the banks' interpretation  
or the law firm's interpretation instead

2:03:14.969,2:03:21.530

of the Trustee's interpretation, Mr. Becker

2:03:21.530,2:03:25.829  
that correct? Mr. Crimmins?

2:03:25.829,2:03:32.829  
[Mr. Crimmins] The point is that the \$500,000  
that Dorothy Becker invested was going to

2:03:34.809,2:03:41.429  
come back. The \$1.5 million, as you indicated,  
was the Madoff fictitious profit was going

2:03:41.429,2:03:47.999  
to Picard's claim as the Trustee, independent  
reporting to the court, not to the SEC, that

2:03:47.999,2:03:52.729  
dealt with a little bit of difference is whether  
there should be some modest rate of return,

2:03:52.729,2:03:56.039  
whether there should be some adjustment for  
inflation.

2:03:56.039,2:04:00.570  
That is still not finally determined. A month  
after Becker has left the agency, it is a

2:04:00.570,2:04:05.949  
small amount and to an individual who was  
compensated at \$3 million a year, roughly,

2:04:05.949,2:04:11.300  
and gave that up to go work in the public  
service, it is totally inconsequential and

2:04:11.300,2:04:16.199  
I would respectfully submit to the Subcommittee,  
be a distraction.

2:04:16.199,2:04:21.389  
\*Mrs. Maloney. May just complete with one  
observation for two seconds.

2:04:21.389,2:04:27.369  
Basically, if someone in Mr. Becker's position  
wanted to help himself financially, he would

2:04:27.369,2:04:32.510  
have taken the opposite point of view than  
the one that he took or the one that the SEC

2:04:32.510,2:04:32.829  
took.

2:04:32.829,2:04:36.199  
[Mr. McHenry] The gentlelady's time has  
expired. We have votes on the Floor, Madam.

2:04:36.199,2:04:38.219  
\*Mrs. Maloney. I look forward to the IG's  
report.

2:04:38.219,2:04:45.219  
[Mr. McHenry] I think we all do. I appreciate  
the gentlelady wrapping up. We do have votes

2:04:45.219,2:04:45.610  
on the Floor.

2:04:45.610,2:04:46.719  
I want to thank the panel.

2:04:46.719,2:04:51.429  
[Ms. Schapiro] Mr. Chairman, I am so sorry,  
I wanted to just say one thing. I want to

2:04:51.429,2:04:55.919  
make it very clear, I don't recall specifically  
whether Mr. Becker told me he had inheritance

2:04:55.919,2:05:02.599  
from the account or whether his mother had  
had an account and I made that assumption.

2:05:02.599,2:05:06.900  
Because it is two years ago, I just don't  
recall. I want to be so clear about that.

2:05:06.900,2:05:10.959  
[Mr. McHenry] We will let the record reflect  
that.

2:05:10.959,2:05:12.539  
[Ms. Schapiro] Thank you.

2:05:12.539,2:05:19.090  
[Mr. McHenry] Certainly. I think it is important  
the record accurately reflect what happened.

2:05:19.090,2:05:23.669  
The findings of this hearing are very important.  
We are interested in management issues. The

2:05:23.669,2:05:30.669  
members certainly took a specific direction  
today dealing with this conflict of interest

2:05:30.679,2:05:37.679  
of Mr. Becker, the General Counsel for the  
SEC because of the fact he was a trustee of

2:05:38.150,2:05:45.150  
a Madoff account a few years before, and the  
decision, as Ms. Chaitman mentions, that was

2:05:46.039,2:05:53.039  
a very different valuation than was existent  
under law and the decision he made that in

2:05:56.459,2:06:02.340  
some ways benefited him disproportionately  
than the other two methods.

2:06:02.340,2:06:09.340  
In terms of the budget, I think it is appropriate  
that SEC have a sufficient budget and we have

2:06:10.610,2:06:15.610  
strong management practices to make sure there  
is transparency and disclosure, safety and

2:06:15.610,2:06:19.150  
soundness in investing in our markets.

2:06:19.150,2:06:26.139  
In the wake of the Enron scandal, in February  
2003, the SEC was given the largest spending

2:06:26.139,2:06:33.139  
increase in its history. The GAO said in testimony  
before this subcommittee in 2003, it was a

2:06:33.239,2:06:40.239  
45 percent increase at that time. This was  
supposed to prevent a future crisis, yet Madoff

2:06:41.749,2:06:48.749  
still occurred and the excuses cannot always  
be based on money. We would ask that we tighten

2:06:50.139,2:06:56.300  
up management practices, do what is appropriate  
in terms of bringing technology to the fore

2:06:56.300,2:07:02.979  
and do the best possible of any regular.

2:07:02.979,2:07:09.979  
It isn't wrong to use a crisis to request  
more. It is wrong to use a crisis just to

2:07:10.320,2:07:16.300  
request more money. So with that, the committee  
stands adjourned. Thank you for your testimony.

2:07:16.300,2:07:16.550  
[Whereupon, at 3:40 p.m., the subcommittee  
was adjourned]